

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
AGENDA ITEM SUMMARY**

AGENDA ITEM: 8.0
DATE: April 18, 2008

ACTION REQUESTED: Adopt/Modify Positions on Bills of Interest to the Board

REQUESTED BY: Louise Bailey, MEd, RN
Nursing Education Consultant

BACKGROUND:

ASSEMBLY BILLS:

AB 1916
AB 2115
AB 2398
AB 2543

SENATE BILLS:

SB 1288
SB 1487
SB 1521
SB 1585
SB 1721
SB 1779

NEXT STEP: None

**FISCAL IMPLICATIONS,
IF ANY:** None

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BOARD OF REGISTERED NURSING
SENATE BILLS 2007/2008
April 18, 2008

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
AB 865	Davis	State agencies: live customer service agents	Watch	Watch	Senate Governmental Organization
AB 1436	Hernandez	Nurse Practitioners	Watch	Watch	Senate Business, Professions and Economic Development Senate Health
AB 1605	Lieber	The State Department of Public Health: Public Health Nurse	Support	Support	
AB 1916	Portantino	Community Colleges: Faculty			Assembly Higher Education
AB 2115	Mullin	Childhood Lead Screening			Assembly Education
AB 2398	Nakanishi	Cosmetic Surgery: Employment of Physicians and Surgeons			Assembly Business and Professions
AB 2543	Berg	Geriatric and Gerontology Workforce Expansion Act			Assembly Health

**BOARD OF REGISTERED NURSING
SENATE BILLS 2007/2008
April 18, 2008**

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
SB 1288	Scott	California State University: Doctor or Nursing Practice Degree			Senate Education
SB 1487	Negrete McLeod	Emergency Medical Services: Diabetes			Senate Health
SB 1521	Cedillo	School Nurse Loan Assumption Program			Senate Education
SB 1585	Padilla	California Community Colleges: Transfer Students			Senate Education
SB 1620	Ashburn	Community colleges: nursing faculty			Senate Education
SB 1721	Yee	Health Facilities: Direct Care Nurses			Senate Health
SB 1779	Committee on Business, Professions and Economic Development	Healing Arts (Omnibus Bill)			Senate

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Portantino	BILL NUMBER:	AB 1916
SPONSOR:	Portantino	BILL STATUS:	Assembly Higher Ed
SUBJECT:	Community colleges: faculty	DATE LAST AMENDED:	04/02/08

SUMMARY:

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law requires that a person employed to teach adult or community college classes for not more than 60% of the hours per week of a full-time employee having comparable duties, excluding substitute service, be classified as a temporary employee and not become a contract employee. This bill would amend the Education Code relating to Community Colleges.

ANALYSIS:

This bill would provide for any person who is employed to teach adult or community college classes for more than 67% of the hours, per week, of a full-time employee, to be classified as a temporary employee and not a contract employee.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY APRIL 2, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1916

Introduced by Assembly Member Portantino

February 8, 2008

An act to amend Section 87482.5 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1916, as amended, Portantino. Community colleges: faculty.

~~(1) Existing~~

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law requires that a person employed to teach adult or community college classes for not more than 60% of the hours per week of a full-time employee having comparable duties, excluding substitute service, be classified as a temporary employee and not become a contract employee.

This bill would raise to 67% the maximum percentage of the hours per week of a full-time employee having comparable duties that a person employed to teach adult or community college classes could teach, while continuing to be classified as a temporary employee. To the extent this provision would impose additional duties on community college districts when they are required to determine the status of academic employees as contract, regular, or temporary employees, it would impose a state-mandated local program.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 87482.5 of the Education Code is
2 amended to read:

3 87482.5. (a) Notwithstanding any other ~~provision of law, any~~
4 ~~law, a~~ person who is employed to teach adult or community college
5 classes for not more than 67 percent of the hours per week
6 considered a full-time assignment for regular employees having
7 comparable duties shall be classified as a temporary employee,
8 and shall not become a contract employee under Section 87604.

9 (b) Service as a substitute on a day-to-day basis by persons
10 employed under this section shall not be used for purposes of
11 calculating eligibility for contract or regular status.

12 (c) (1) Service in professional ancillary activities by persons
13 employed under this section, including, but not necessarily limited
14 to, governance, staff development, grant writing, and advising
15 student organizations, shall not be used for purposes of calculating
16 eligibility for contract or regular status unless otherwise provided
17 for in a collective bargaining agreement applicable to a person
18 employed under this section.

19 (2) This subdivision may not be construed to affect the
20 requirements of subdivision (d) of Section 84362.

21 ~~SEC. 2.— If the Commission on State Mandates determines that~~
22 ~~this act contains costs mandated by the state, reimbursement to~~
23 ~~local agencies and school districts for those costs shall be made~~
24 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
25 ~~4 of Title 2 of the Government Code.~~

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Mullin	BILL NUMBER:	AB 2115
SPONSOR:	Mullin	BILL STATUS:	Assembly Education
SUBJECT:	Childhood lead screening	DATE LAST AMENDED:	03/28/08

SUMMARY:

Existing law, the Childhood Lead Poisoning Prevention Act of 1991, requires the State Department of Public Health to adopt regulations establishing a standard of care, at least as stringent as the most recent United States Centers for Disease Control and Prevention blood lead level screening guidelines, whereby all children are required to be evaluated for risk of lead poisoning by health care providers during each child's periodic health assessment. Existing law also establishes a Childhood Lead Poisoning Prevention Program within the department.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or developmental center unless he or she has been fully immunized against various diseases and provides documentary proof of a pupil's immunization status. Existing law requires the governing board of each school district to exclude from school, for not more than 5 days, any first grade pupil who has not provided either a prescribed certificate that the child has received health screening and evaluation services or a waiver.

ANALYSIS:

This bill would specify the intent of the Legislature for the administration of an **evaluation** for lead poisoning by registered nurses as part of a school immunization program under the direction of a supervising physician.

The bill permits the State Department of Public Health, in consultation with the State Department of Education, to adopt regulations specifying the procedures and circumstances under which a registered nurse, acting under the direction of a supervising physician, could administer an evaluation for lead poisoning. **"Evaluation"** is defined as a risk assessment, a blood screening, or both, for lead poisoning.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2115

Introduced by Assembly Member Mullin

February 20, 2008

An act to add Section 124168 to the Health and Safety Code, relating to childhood lead poisoning.

LEGISLATIVE COUNSEL'S DIGEST

AB 2115, as amended, Mullin. Childhood lead screening.

Existing law, the Childhood Lead Poisoning Prevention Act of 1991, requires the State Department of Public Health to adopt regulations establishing a standard of care, at least as stringent as the most recent United States Centers for Disease Control and Prevention blood lead level screening guidelines, whereby all children are required to be evaluated for risk of lead poisoning by health care providers during each child's periodic health assessment. Existing law also establishes a Childhood Lead Poisoning Prevention Program within the department.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or developmental center unless he or she has been fully immunized against various diseases and provides documentary proof of a pupil's immunization status. Existing law requires the governing board of each school district to exclude from school, for not more than 5 days, any first grade pupil who has not provided either a prescribed certificate that the child has received health screening and evaluation services or a waiver.

This bill would, with certain exceptions, on and after July 1, 2010, prohibit the above-described governing authorities from unconditionally admitting any person *who is 6 years of age or younger* as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or developmental center, unless the pupil has a certificate showing that he or she has been ~~screened~~ *evaluated* for lead poisoning. The bill would require evidence of the certificate to be included in the entrant's permanent cumulative record.

The bill would authorize the department to adopt regulations specifying the procedures and circumstances in which a registered nurse may administer a risk assessment, blood screening, or both, for lead poisoning. By imposing new duties upon local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 124168 is added to the Health and Safety
- 2 Code, to read:
- 3 124168. (a) For purposes of this section, the following terms
- 4 shall have the following meanings:
- 5 (1) "Certificate" means a document signed by the examining
- 6 physician licensed under Chapter 5 (commencing with Section
- 7 2000) of Division 2 of the Business and Professions Code, or a
- 8 notice from a public health agency, or any other private or public
- 9 source, any of which indicates that ~~screening~~ *an evaluation* for
- 10 lead poisoning has been completed.
- 11 (2) "Department" means State Department of Public Health.
- 12 (3) "Governing authority" means the governing board of each
- 13 school district or the authority of each other private or public
- 14 institution responsible for the operation and control of the

1 institution or the principal or administrator of each school or
2 institution.

3 (4) *“Evaluation” means a risk assessment, a blood screening,*
4 *or both, for lead poisoning that is or are consistent with regulations*
5 *adopted pursuant to Section 105285.*

6 (b) ~~Exempt~~ Except as provided in subdivisions (d) and (e), the
7 governing authority shall not unconditionally admit any person
8 *who is six years of age or younger* as a pupil of any private or
9 public elementary ~~or secondary~~ school, child care center, day
10 nursery, nursery school, family day care home, or developmental
11 center, unless prior to his or her first admission to that institution
12 he or she provides evidence to the institution of a certificate
13 showing that he or she has undergone ~~screening~~ *an evaluation* for
14 lead poisoning.

15 (c) The governing authority shall include the provided evidence
16 of a certificate showing that each person subject to the requirements
17 of subdivision (b) has undergone ~~screening~~ *an evaluation* for lead
18 poisoning in the person’s permanent cumulative record.

19 (d) (1) A person who does not have on file the certificate
20 required by this section may be admitted by the governing authority
21 on condition that, within a time period designated by the
22 department, he or she will provide the certificate.

23 (2) Unless the person is exempt pursuant to subdivision (e), the
24 governing authority shall prohibit from further attendance any
25 person admitted conditionally who fails to obtain and provide the
26 required certificate within the time period designated by the
27 department, until the person has provided the certificate to the
28 governing authority.

29 (e) (1) The certificate shall not be required if the parent,
30 guardian, or other adult who has assumed responsibility for his or
31 her care and custody in case of a minor, ~~or the person seeking~~
32 ~~admission, if an emancipated minor,~~ provides to the governing
33 authority an affidavit stating that the ~~screening~~ *evaluation* required
34 to obtain the certificate is contrary to his or her beliefs.

35 (2) The certificate shall not be required if the parent, guardian,
36 or other adult who has assumed responsibility for his or her care
37 and custody in case of a minor, ~~or the person seeking admission,~~
38 ~~in the case of an emancipated minor,~~ files with the governing
39 authority a written statement by a licensed physician to the effect
40 that the physical condition of the child is such, or medical

1 circumstances relating to the child are such, that ~~screening an~~
2 *evaluation* for lead poisoning is not considered safe and indicates
3 the specific nature and probable duration of the medical condition
4 or circumstances that contraindicate the ~~screening~~ *evaluation*.

5 (3) ~~The certificate shall not be required for any person 18 years~~
6 ~~of age or older.~~

7 (f) The department, in consultation with the State Department
8 of Education, shall adopt ~~and enforce all regulations~~ *regulations*
9 ~~as necessary to carry out this section. These regulations shall~~
10 ~~include, but not be limited to, the specification of process for~~
11 ~~screening for lead poisoning modeled on the two-step process~~
12 ~~recommended by the United States Public Health Services' Centers~~
13 ~~for Disease Control and the American Academy of Pediatrics.~~
14 ~~carry out this section.~~

15 (g) Any person or organization administering ~~screening an~~
16 *evaluation* for lead poisoning shall furnish each person examined,
17 or his or her parent or guardian, as appropriate, with a certificate
18 of the examination results given in a form prescribed by the
19 department.

20 (h) The governing authority may cooperate with the local health
21 officer in carrying out any programs ordered by the local health
22 officer for the ~~screening~~ *evaluation* for lead poisoning of persons
23 applying for first admission to any school or institution under its
24 jurisdiction. The governing board of any school district may use
25 funds, property, and personnel of the district for that purpose.

26 (i) It is the intent of the Legislature for the administration of
27 ~~screening an~~ *evaluation* for lead poisoning by registered nurses as
28 part of a school immunization program under the direction of a
29 supervising physician and surgeon as provided in Sections 49403
30 and 49426 of the Education Code, to be in accordance with
31 accepted medical procedures. To implement this intent, the
32 department, in consultation with the State Department of Education,
33 may adopt regulations specifying the procedures and circumstances
34 under which a registered nurse, acting under the direction of a
35 supervising physician and surgeon, may administer ~~screening an~~
36 *evaluation* for lead poisoning. However, nothing in this section
37 shall be construed to prevent any registered nurse from
38 administering an immunizing agent in accordance with Sections
39 49403 and 49426 of the Education Code in the absence of these
40 regulations.

1 (j) This section shall become operative July 1, 2010.
2 SEC. 2. If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Nakanishi	BILL NUMBER:	AB 2398
SPONSOR:	California Society of Dermatology & Dermatologic Surgery	BILL STATUS:	Assembly Business and Professions
SUBJECT:	Cosmetic surgery: employment of physicians and surgeons.	DATE LAST AMENDED:	04/01/08

SUMMARY:

Existing law, the Medical Practice Act, requires specified disclosures to patients undergoing procedures involving collagen injections, defined as any substance derived from, or combined with, animal protein. Existing law also requires the board to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. This bill would add a section to the Business and Professions Code, relating to medicine.

ANALYSIS:

This bill would require a physician who delegates the performance or administration of any cosmetic medical procedure or treatment to provide **direct** supervision of that procedure or treatment. Direct supervision means that the physician would be required to be onsite and available for immediate consultation at the time of the administration of the procedure or treatment. A person or entity that violates the direct supervision requirement would be subject to a fine of up to \$25,000 per occurrence, via a citation issued by the Medical Board or a civil penalty of \$25,000 per occurrence. Multiple violations would result in a fine not to exceed \$25,000 or imprisonment in a county jail, or by both the fine and imprisonment. It would provide for the Attorney General to enforce the proposed provisions and collect the fines or civil penalties.

Currently, registered nurses can perform or administer a cosmetic medical procedure or treatment, without the physician being present in the facility, by means of a standardized procedure.

Amended analysis of 04/01/08:

This bill amendment would require a physician who delegates the performance or administration of any elective cosmetic medical procedure or treatment to a registered nurse, perform an initial, good faith, examination of the patient for whom treatment has been delegated. In a physician-owned and operated treatment setting, **direct**

supervision is not required upon delegation to a nurse practitioner, physician assistant, or registered nurse. The delegating physician would be required to provide direct supervision of the procedure or treatment, if requested by the patient.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2398

Introduced by Assembly Member Nakanishi

February 21, 2008

An act to amend Section 2417 of, and to add Section 2259.6 to, the Business and Professions Code, relating to ~~cosmetic surgery~~ *the practice of medicine*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as amended, Nakanishi. ~~Cosmetic surgery.~~ *Practice of medicine: cosmetic surgery: employment of physicians and surgeons.*

Existing law, the Medical Practice Act, establishes the Medical Board of California under the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

Existing law, the Medical Practice Act, requires specified disclosures to patients undergoing procedures involving collagen injections, defined as any substance derived from, or combined with, animal protein. Existing law also requires the board to adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital. Existing law makes a violation of these provisions a misdemeanor.

This bill would require a physician and surgeon who delegates to a registered nurse the performance or administration of any elective cosmetic medical procedure or treatment, as defined, to *perform an initial, good faith, and appropriate prior examination of the patient for whom treatment has been delegated and to provide immediate direct supervision of that procedure or treatment, as specified under certain*

conditions. The bill would prohibit a physician and surgeon from delegating the performance or administration of elective cosmetic medical procedures or treatments to more than 4 separately addressed locations under his or her supervision, which must be located as specified. The bill would provide that a violation of that provision may subject the person or entity that has committed the violation to either a fine of up to \$25,000 per occurrence pursuant to a citation issued by the board or a civil penalty of \$25,000 per occurrence. The bill would also provide that multiple acts by any person or entity in violation of that provision shall be punishable by a fine not to exceed \$25,000 or by imprisonment in a county jail not exceeding 6 months, or by both that fine and imprisonment. The bill would authorize the Attorney General to bring an action to enforce those provisions.

Because multiple violations of those provisions would be a crime, this bill would impose a state-mandated local program.

The Medical Practice Act restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law makes it unlawful to knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit, or to aid, abet, solicit, or conspire with any person to do so, and makes a violation of this prohibition a public offense.

This bill would permanently revoke the license of a physician and surgeon who practices medicine with a business organization knowing that it is owned or operated in violation of the prohibition against employment of licensed physicians and surgeons and podiatrists. The bill would also make a business organization that is owned and operated in violation of the prohibition, and that contracts with or employs a physician and surgeon to facilitate the offer or provision of professional services that may only be provided by a licensed physician and surgeon, guilty of a violation of the prohibition against knowingly making or causing to be made any false or fraudulent claim for payment of a health care benefit. Because this bill would expand a public offense, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2259.6 is added to the Business and
2 Professions Code, to read:
3 2259.6. (a) Any physician and surgeon who delegates the
4 performance or administration of any *elective cosmetic medical*
5 ~~procedure or treatment shall provide direct supervision of that~~
6 ~~procedure or treatment.~~ *or treatment to a registered nurse shall,*
7 *pursuant to the requirements of this article, perform an initial,*
8 *good faith, and appropriate prior examination of the patient for*
9 *whom treatment has been delegated. Subject to the provisions of*
10 *subdivision (d), in a physician and surgeon-owned and operated*
11 *treatment setting, direct supervision is not required upon*
12 *delegation to a nurse practitioner, physician assistant, or registered*
13 *nurse. In all circumstances, upon request of the patient, the*
14 *delegating physician and surgeon shall afford the patient direct*
15 *supervision of the procedure or treatment.*
16 (b) Direct supervision shall mean that the physician and surgeon
17 must be onsite and available for immediate consultation at the time
18 of performance or administration of the procedure or treatment.
19 (c) As used in this section, ~~“cosmetic~~ *“elective cosmetic medical*
20 ~~procedure or treatment”~~ means a medical procedure or treatment
21 that is performed to alter or reshape normal structures of the body
22 solely in order to improve appearance.
23 (d) *In no event may a physician and surgeon delegate the*
24 *performance or administration of elective cosmetic medical*
25 *procedures or treatments to more than four separately addressed*
26 *locations under his or her supervision, one of which shall be his*
27 *or her primary practice location. These sites shall be located within*
28 *a radius no greater than that which may be reached within 60*
29 *minutes from the physician and surgeon’s primary practice*
30 *location. A delegating physician and surgeon shall be available*
31 *to attend to emergent patient circumstances within a reasonable*
32 *time, not to exceed 24 hours from the onset of those circumstances.*
33 ~~(d)~~
34 (e) Notwithstanding any other provision of law, a violation of
35 this section may subject the person or entity that has committed

1 the violation to either a fine of up to twenty-five thousand dollars
2 (\$25,000) per occurrence pursuant to a citation issued by the board
3 or a civil penalty of twenty-five thousand dollars (\$25,000) per
4 occurrence. Section 125.9 shall govern the issuance of this citation
5 and fine except that the fine limitations prescribed in paragraph
6 (3) of subdivision (b) of Section 125.9 shall not apply to a fine
7 under this subdivision.

8 ~~(e)~~

9 (f) Multiple acts by any person or entity in violation of this
10 section shall be punishable by a fine not to exceed twenty-five
11 thousand dollars (\$25,000) or by imprisonment in a county jail not
12 exceeding six months, or by both that fine and imprisonment.

13 ~~(f)~~

14 (g) The Attorney General may bring an action to enforce this
15 section and to collect the fines or civil penalties authorized by
16 subdivision (d) or (e).

17 *SEC. 2. Section 2417 of the Business and Professions Code is*
18 *amended to read:*

19 2417. (a) If the Department of Insurance has evidence that a
20 business is being operated in violation of this chapter, Part 4
21 (commencing with Section 13400) of Division 3 of the
22 Corporations Code, or Chapter 1 (commencing with Section 1200)
23 of Division 2 of the Health and Safety Code, and that the business
24 may be in violation of Section 1871.4 of the Insurance Code or
25 Section 549 or 550 of the Penal Code, then the department shall
26 report the business, and any physician and surgeon suspected of
27 knowingly providing medical services for that business relative to
28 a violation of Section 1871.4 of the Insurance Code or Section 549
29 or 550 of the Penal Code, to the appropriate regulatory agency.
30 Upon receiving a report from the Department of Insurance of a
31 suspected violation, the regulatory agency shall conduct an
32 investigation. The requirement in subdivision (a) of Section
33 1872.95 of the Insurance Code for investigations to be conducted
34 within existing resources does not apply to investigations required
35 by this section. The Department of Insurance may consult with
36 the appropriate regulatory department or agency prior to making
37 its report to that department or agency, and this consultation shall
38 not be deemed to require the department or agency to conduct an
39 investigation.

1 (b) A physician and surgeon who practices medicine with a
2 business organization knowing that it is owned or operated in
3 violation of Section 1871.4 of the Insurance Code, Section 14107
4 or 14107.2 of the Welfare and Institutions Code, or Section 549
5 or 550 of the Penal Code shall have his or her license to practice
6 permanently revoked.

7 (c) *A physician and surgeon who practices medicine with a*
8 *business organization, knowing that it is owned or operated in*
9 *violation of Section 2400, shall have his or her license to practice*
10 *permanently revoked. A physician and surgeon who contracts to*
11 *serve as, or otherwise allows himself or herself to be employed*
12 *as, the medical director of a business organization that he or she*
13 *does not own and that offers to provide or provides professional*
14 *services that may only be provided by the holder of a valid*
15 *physician's and surgeon's certificate under this chapter shall be*
16 *deemed to have knowledge that the business organization is in*
17 *violation of Section 2400.*

18 (d) *A business organization that is owned or operated in*
19 *violation of Section 2400 and that contracts with, or otherwise*
20 *employs, a physician and surgeon to facilitate its offers to provide,*
21 *or the provision of, professional services that may only be provided*
22 *by the holder of a valid physician's and surgeon's certificate is*
23 *guilty of violating paragraph (6) of subdivision (a) of Section 550*
24 *of the Penal Code.*

25 ~~SEC. 2.~~

26 SEC. 3. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Berg	BILL NUMBER:	AB 2543
SPONSOR:	California Commission on Geriatric and Gerontology National Association of Social Workers in California	BILL STATUS:	Assembly Health
SUBJECT:	Geriatric and Gerontology Workforce Expansion Act	DATE LAST AMENDED:	03/25/08

SUMMARY:

Existing law provides for the licensure and regulation of nurses, social workers, and marriage and family therapist by specified boards. Existing law requires these persons to pay licensing and renewal fees for licensure, as specified. This bill would add sections to the Business and Professions Code and a chapter to the Health and Safety Code, relating to loan assistance.

ANALYSIS:

This bill would establish the **Geriatric and Gerontology Workforce Expansion Act**, which would be administered by specific boards, in consultation with the Office of Statewide Health Planning and Development, to provide loan repayment assistance to dentists, physicians, osteopathic physicians, nurses, psychologists, and social workers who work in a geriatric care setting, as specified. For these provisions, the bill would raise the licensing and renewal fees of the licensees by \$10, for deposit into the continuously appropriated funds or other funds of the boards.

This bill would also establish the **California Geriatric Registered Nurses Loan Assistance Program of 2008**. The Board of Registered Nursing in consultation with the Office of Statewide Health Planning and Development, the medical community, including representatives of ethnic minority groups, health advocates and others would be required to develop and implement the California Geriatric Registered Nurses Loan Assistance Program of 2008. The Board of Registered Nursing would be required, among other things, to develop the guidelines for selection and placement of applicants.

The program participants would be required to:

- Be working in, or have a signed agreement with, an eligible practice setting and working full time, as defined by the Board.
- Commit to a minimum of three years of service in a geriatric setting

The Board of Registered Nursing would be required to develop a:

- process should a nurse be unable to complete his or her three-year obligation.
- process for outreach to potentially eligible applicants.

The terms of the loan repayment would be as follows:

- \$7,500 after one year of completion as a registered nurse in a geriatric setting.
- \$10,000 after two consecutive years.
- \$12,500 after three consecutive years.

On or before October 1, 2011, the board would be required to report to the Legislature on the experience of the program since inception, an evaluation of its effectiveness in improving access to health care for populations of older Californians, and recommendations for maintaining or expanding its operations. The board may promulgate emergency regulations to implement the program

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY MARCH 25, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2543

Introduced by Assembly Member Berg
(Coauthor: Assembly Member De La Torre)

February 22, 2008

An act to add Sections ~~2435.4~~, 2815.2, 4984.75, and 4996.66 to the Business and Professions Code, and to ~~add Article 4 (commencing with Section 128300)~~, *amend Sections 128552 and 128553 of*, to add Article 5 (commencing with Section 128305); and Article 6 (commencing with Section 128310) to Chapter 4 of Part 3 of Division 107 of, and to add Chapter 6 (commencing with Section 128559) to Part 3 of Division 107 of, the Health and Safety Code, relating to loan assistance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2543, as amended, Berg. Geriatric and Gerontology Workforce Expansion Act.

Existing

(1) Existing law provides for the licensure and regulation of ~~physicians and surgeons~~, nurses, social workers, and marriage and family therapists by specified boards. Existing law requires those persons to pay licensing and renewal fees for licensure, as specified.

This bill would establish the Geriatric and Gerontology Workforce Expansion Act, which would be administered by the Office of Statewide Health Planning and Development; to provide loan repayment assistance to ~~physicians and surgeons~~, nurses, social workers, and marriage and

family therapists who work in a geriatric care setting, as specified. For those purposes, the bill would raise the licensing and renewal fees of these licensees by \$10 ~~or \$50~~, as specified, for deposit into the continuously appropriated funds ~~or other funds~~ of the boards described above, thereby making an appropriation.

This bill would also establish the California Geriatric and Gerontology Student Loan Assistance Program of 2008, which would be administered by the Office of Statewide Health Planning and Development for purposes of providing loan assistance to students who intend to become employed as licensed health care professionals, social workers, or marriage and family therapists in a geriatric care setting, as specified. Those provisions would only become operative if appropriate funding, as determined by the office, is made available. The bill would require the office to report annually to the Legislature with regard to the program, as specified.

(2) Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program in the California Physician Corps Program within the Health and Professions Education Foundation, which provides financial incentives, as specified, to a physician and surgeon for practicing in a medically underserved community. Existing law authorizes the foundation to appoint a selection committee to provide policy direction and guidance over the program.

This bill would require that selection committee to fill 15% of the available positions with program applicants that agree to practice in a geriatric care setting. These provisions would become operative only if AB 2439 is enacted and becomes effective on or before January 1, 2009.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Geriatric and Gerontology Workforce Expansion Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The population of California is aging at an exponential rate
- 5 with Californians who are 65 years of age or over reaching 6.5
- 6 million by 2010, which is over 14 percent of the total population,
- 7 and reaching over 9 million by 2020.

1 (b) The greatest growth within the aging population will be
2 those who are 85 years of age or older who will, by 2030, comprise
3 one in five of California's older residents.

4 (c) As California ages, it will become more racially and
5 ethnically diverse, with African Americans, Latinos, and Asian
6 Americans exceeding 40 percent of the older adult population,
7 many of whom were born outside the United States; meaning,
8 therefore, that there is a greater need for those providing services
9 to older adults to be bilingual or multilingual.

10 (d) It is the policy of the Mello-Granlund Older Californians
11 Act (Division 8.5 (commencing with Section 9000) of the Welfare
12 and Institutions Code) that older adults and those with disabilities
13 live as independent from institutions as much as possible and as
14 long as possible.

15 (e) It is the policy of the Mello-Granlund Older Californians
16 Act (Division 8.5 (commencing with Section 9000) of the Welfare
17 and Institutions Code) that to live independently, older Californians
18 must have an array of home and community-based services, in
19 conjunction with the federal Older Americans Act (42 U.S.C. Sec.
20 3001 et seq.), that support a quality of life and saves taxpayer
21 dollars in contrast to the cost of institutionalization.

22 (f) In order to sustain an independent lifestyle for older adults,
23 there must be trained gerontologists and health care professionals
24 trained in geriatrics to address the social and health needs of older
25 adults as they age.

26 (g) At present, California faces a severe shortage of professional
27 and paraprofessional gerontologists and geriatricians needed to
28 operate programs and provide services for older adults. Currently,
29 there is only one board-certified physician geriatrician per 4,000
30 Californians who are 65 years of age or older; and currently, only
31 5 percent of social workers are trained in gerontology or geriatrics,
32 yet 62 percent of licensed social workers have, or have had, care
33 management responsibilities.

34 (h) Incentives for recruiting students into training for careers in
35 gerontology and geriatrics must be developed in order to fill the
36 gap between workforce supply and demand lest the state incur the
37 greater cost of institutionalization and the quality of life for older
38 Californians suffers.

(i) Student loan forgiveness programs are a proven method of inducing health care professionals to pursue stipulated career fields for a specified time in exchange for loan assistance.

~~SEC. 3. Section 2435.4 is added to the Business and Professions Code, to read:~~

~~2435.4. In addition to the fees charged for initial issuance or biennial renewal of a physician and surgeon's certificate pursuant to Section 2435, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of fifty dollars (\$50) for the purposes of the California Geriatric Medical Loan Repayment Program of 2008 (Article 4 (commencing with Section 128300) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this fifty-dollar (\$50) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Medical Account, as provided in Section 128300.4 of the Health and Safety Code.~~

~~SEC. 4.~~

~~SEC. 3. Section 2815.2 is added to the Business and Professions Code, to read:~~

~~2815.2. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 2815, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars (\$10) for the purposes of the California Geriatric Registered Nurses Loan Assistance Program of 2008 (Article 5 (commencing with Section 128305) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this ten-dollar (\$10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Registered Nurses Account, as provided in Section 128305.4 of the Health and Safety Code.~~

~~SEC. 5.~~

~~SEC. 4. Section 4984.75 is added to the Business and Professions Code, to read:~~

~~4984.75. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 4984.7, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars (\$10) for the purposes of the California Geriatric Social Workers and Marriage~~

and Family Therapists Loan Assistance Program of 2008 (Article 6 (commencing with Section 128310) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this ten-dollar (\$10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Social Workers and Marriage and Family Therapists Account, as provided in Section 128310.4 of the Health and Safety Code.

~~SEC. 6.~~

SEC. 5. Section 4996.66 is added to the Business and Professions Code, to read:

4996.66. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 4996.3, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars (\$10) for the purposes of the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008 (Article 6 (commencing with Section 128310) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this ten-dollar (\$10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Social Workers and Marriage and Family Therapists Account, as provided in Section 128310.4 of the Health and Safety Code.

~~SEC. 7. Article 4 (commencing with Section 128300) is added to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, to read:~~

~~Article 4. California Geriatric Medical Loan Assistance Program
of 2008~~

~~128300. There is hereby established in the Office of Statewide Health Planning and Development, the California Geriatric Medical Loan Assistance Program of 2008.~~

~~128300.1. It is the intent of this article that the office, in consultation with the board, the medical community, including representatives of ethnic minority groups, medical schools, health advocates, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded health programs targeting communities of older~~

1 Californians, and members of the public with health care issue-area
2 expertise, shall develop and implement the California Geriatric
3 Medical Loan Assistance Program of 2008.

4 128300.2. For purposes of this article, the following terms have
5 the following meanings:

6 (a) “Account” means the Geriatric Medical Account that is
7 contained within the fund.

8 (b) “Board” means the Medical Board of California.

9 (c) “Fund” means the Contingent Fund of the Medical Board
10 of California.

11 (d) “Geriatrics” means the practice of medicine, with training
12 in, and application to, older adults who are 65 years of age or older
13 or those with disabilities.

14 (e) “Office” means the Office of Statewide Health Planning and
15 Development.

16 (f) “Program” means the California Geriatric Medical Loan
17 Assistance Program of 2008.

18 128300.3. (a) Program applicants shall possess a current valid
19 license to practice medicine in this state issued by the board
20 pursuant to Section 2050 of the Business and Professions Code.

21 (b) The office, in accordance with Section 128300.1, shall
22 develop the guidelines for selection and placement of applicants.
23 The guidelines shall do all of the following:

24 (1) Provide priority consideration to applicants who are trained
25 in, and practice, geriatrics and who can meet the cultural and
26 linguistic needs and demands of diverse populations of older
27 Californians.

28 (2) Provide priority consideration to applicants who have
29 recently obtained their license to practice medicine.

30 (3) Give preference to applicants who have completed a
31 three-year residency in a primary specialty.

32 (4) Seek to place the most qualified applicants under this section
33 in the areas with the greatest need.

34 (5) Include a factor ensuring geographic distribution of
35 placements.

36 (6) Ensure that applicants may not discriminate against those
37 who cannot pay for medical services or those who are funded, in
38 part or in whole, by Medicare or Medi-Cal.

39 (c) Program participants shall be working in, or have a signed
40 agreement with, an eligible practice setting. The program

1 participant shall have full-time status, as defined by the office. The
2 office ~~may establish exemptions to this requirement on a~~
3 ~~case-by-case basis.~~

4 (d) ~~Program participants shall commit to a minimum of three~~
5 ~~years of service in a geriatric care setting. Leaves of absence shall~~
6 ~~be permitted for serious illnesses, pregnancy, or other natural~~
7 ~~causes. The office, in accordance with Section 128300.1, shall~~
8 ~~develop the process for determining the maximum permissible~~
9 ~~length of an absence and the process for reinstatement. Loan~~
10 ~~repayment shall be deferred until the physician and surgeon is back~~
11 ~~to full-time status.~~

12 (e) ~~The office, in accordance with Section 128300.1, shall~~
13 ~~develop the process should a physician and surgeon be unable to~~
14 ~~complete his or her three-year obligation.~~

15 (f) ~~The office, in accordance with Section 128300.1, shall~~
16 ~~develop a process for outreach to potentially eligible applicants.~~

17 (g) ~~The office may adopt any other standards of eligibility,~~
18 ~~placement, or termination appropriate to achieve the aim of~~
19 ~~providing competent health care services in geriatrics.~~

20 128300.4. (a) ~~The Geriatric Medical Account is hereby created~~
21 ~~in the fund.~~

22 (b) ~~Funding for the account shall be from fees paid at the time~~
23 ~~of initial licensure or renewal of a physician's and surgeon's~~
24 ~~certificate as prescribed by Section 2435.4 of the Business and~~
25 ~~Professions Code.~~

26 (c) ~~Funds placed into the account shall be used by the office to~~
27 ~~repay the loans of program participants pursuant to agreements~~
28 ~~made under the program.~~

29 (1) ~~Funds paid out for loan repayment may have a funding match~~
30 ~~from foundation or other private sources.~~

31 (2) ~~Loan repayments shall not exceed one hundred five thousand~~
32 ~~dollars (\$105,000) per program participant.~~

33 (3) ~~Loan repayments shall not exceed the amount of the~~
34 ~~educational loans incurred by the program participant.~~

35 (d) ~~Notwithstanding Section 11005 of the Government Code,~~
36 ~~the office may seek and receive matching funds from foundations~~
37 ~~and private sources to be placed into the account. The office also~~
38 ~~may contract with an exempt foundation for the receipt of matching~~
39 ~~funds to be transferred to the account for use by this program.~~

~~128300.5. The terms of loan repayment granted under this article shall be as follows:~~

~~(a) After a program participant has completed one year of providing services as a physician and surgeon in a geriatric setting, the office shall provide up to twenty-five thousand dollars (\$25,000) for loan repayment.~~

~~(b) After a program participant has completed two consecutive years of providing services as a physician and surgeon in a geriatric setting, the office shall provide up to an additional thirty-five thousand dollars (\$35,000) of loan repayment, for a total loan repayment of up to sixty thousand dollars (\$60,000).~~

~~(c) After a program participant has completed three consecutive years of providing services as a physician and surgeon in a geriatric setting, the office shall provide up to a maximum of an additional forty-five thousand dollars (\$45,000) of loan repayment, for a total loan repayment of up to one hundred five thousand dollars (\$105,000).~~

~~128300.6. (a) On and after January 1, 2010, applications from physicians and surgeons for program participation may be submitted.~~

~~(b) The office may work in conjunction with the Health Professions Education Foundation for the implementation and administration of this program.~~

~~(c) The office may promulgate emergency regulations to implement the program.~~

~~SEC. 8.~~

~~SEC. 6. Article 5 (commencing with Section 128305) is added to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, to read:~~

Article 5. California Geriatric Registered Nurses Loan
Assistance Program of 2008

128305. There is hereby established in the Office of Statewide Health Planning and Development, the California Geriatric Registered Nurses Loan Assistance Program of 2008.

128305.1. It is the intent of this article that the office, in consultation with the board, the medical community, including representatives of ethnic minority groups, medical schools, health advocates, primary care clinics, public hospitals and health care

1 systems, statewide agencies administering state and federally
2 funded health programs targeting communities of older
3 Californians, and members of the public with health care issue-area
4 expertise, shall develop and implement the California Geriatric
5 Registered Nurses Loan Assistance Program of 2008.

6 128305.2. For purposes of this article, the following terms have
7 the following meanings:

8 (a) “Account” means the Geriatric Registered Nurses Account
9 that is contained within the fund.

10 (b) “Board” means the Board of Registered Nursing.

11 (c) “Fund” means the Board of Registered Nursing Fund.

12 (d) “Geriatrics” means the practice of nursing, with training in,
13 and application to, older adults who are 65 years of age or older
14 or those with disabilities.

15 (e) “Office” means the Office of Statewide Health Planning and
16 Development.

17 (f) “Program” means the California Geriatric Registered Nurses
18 Loan Assistance Program of 2008.

19 128305.3. (a) Program applicants shall possess a current valid
20 license to practice registered nursing in this state issued by the
21 board pursuant to Section 2742 of the Business and Professions
22 Code.

23 (b) The office shall develop the guidelines for selection and
24 placement of applicants. The guidelines shall do all of the
25 following:

26 (1) Provide priority consideration to applicants who are trained
27 in, and practice, geriatric nursing, including, but not limited to,
28 nurses with doctorate degrees in gerontology, geriatric nurse
29 practitioners, and geriatric nurse clinicians, and who can meet the
30 cultural and linguistic needs and demands of diverse populations
31 of older Californians.

32 (2) Provide priority consideration to applicants who are
33 recognized as geriatric nurse practitioners or geriatric nurse
34 clinicians and that have recently obtained their license to practice
35 as a registered nurse.

36 (3) Give preference to applicants who have completed a
37 residency in nursing.

38 (4) Seek to place the most qualified applicants under this section
39 in the areas with the greatest need.

1 (5) Include a factor ensuring geographic distribution of
2 placements.

3 (6) Ensure that applicants may not discriminate against those
4 who cannot pay for medical services or those who are funded, in
5 part or in whole, by Medicare or Medi-Cal.

6 (c) Program participants shall be working in, or have a signed
7 agreement with, an eligible practice setting. The program
8 participant shall have full-time status, as defined by the office. The
9 office may establish exemptions to this requirement on a
10 case-by-case basis.

11 (d) Program participants shall commit to a minimum of three
12 years of service in a geriatric care setting. Leaves of absence shall
13 be permitted for serious illnesses, pregnancy, or other natural
14 causes. The office shall develop the process for determining the
15 maximum permissible length of an absence and the process for
16 reinstatement. Loan repayment shall be deferred until the nurse is
17 back to full-time status.

18 (e) The office shall develop the process should a nurse be unable
19 to complete his or her three-year obligation.

20 (f) The office shall develop a process for outreach to potentially
21 eligible applicants.

22 (g) The office may adopt any other standards of eligibility,
23 placement, or termination appropriate to achieve the aim of
24 providing competent health care services in geriatrics.

25 128305.4. (a) The Geriatric Registered Nurses Account is
26 hereby created in the fund.

27 (b) Funding for the account shall be from fees paid at the time
28 of initial licensure or renewal pursuant to Section 2815.2 of the
29 Business and Professions Code.

30 (c) Funds placed into the account shall be used by the office to
31 repay the loans of program participants pursuant to agreements
32 made under the program.

33 (1) Funds paid out for loan repayment may have a funding match
34 from foundation or other private sources.

35 (2) Loan repayments shall not exceed thirty thousand dollars
36 (\$30,000) per program participant.

37 (3) Loan repayments shall not exceed the amount of the
38 educational loans incurred by the program participant.

39 (d) Notwithstanding Section 11005 of the Government Code,
40 the office may seek and receive matching funds from foundations

1 and private sources to be placed into the account. The office also
2 may contract with an exempt foundation for the receipt of matching
3 funds to be transferred to the account for use by this program.

4 128305.5. The terms of loan repayment granted under this
5 article shall be as follows:

6 (a) After a program participant has completed one year of
7 providing services as a registered nurse in a geriatric setting, the
8 office shall provide up to seven thousand five hundred dollars
9 (\$7,500) for loan repayment.

10 (b) After a program participant has completed two consecutive
11 years of providing services as a registered nurse in a geriatric
12 setting, the office shall provide up to an additional ten thousand
13 dollars (\$10,000) of loan repayment, for a total loan repayment of
14 up to seventeen thousand five hundred dollars (\$17,500).

15 (c) After a program participant has completed three consecutive
16 years of providing services as a registered nurse in a geriatric
17 setting, the office shall provide up to a maximum of an additional
18 twelve thousand five hundred dollars (\$12,500) of loan repayment,
19 for a total loan repayment of up to thirty thousand dollars
20 (\$30,000).

21 128305.6. (a) On and after January 1, 2010, applications from
22 registered nurses for program participation may be submitted.

23 (b) The office may work in conjunction with the Health
24 Professions Education Foundation for the implementation and
25 administration of this program.

26 (c) The office may promulgate emergency regulations to
27 implement the program.

28 ~~SEC. 9.~~

29 *SEC. 7.* Article 6 (commencing with Section 128310) is added
30 to Chapter 4 of Part 3 of Division 107 of the Health and Safety
31 Code, to read:

32
33 Article 6. California Geriatric Social Workers and Marriage
34 and Family Therapists Loan Assistance Program of 2008
35

36 128310. There is hereby established in the Office of Statewide
37 Health Planning and Development, the California Geriatric Social
38 Workers and Marriage and Family Therapists Loan Assistance
39 Program of 2008.

128310.1. It is the intent of this article that the office, in consultation with the board, the medical community, including representatives of ethnic minority groups, schools of social work, health advocates, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded health programs targeting communities of older Californians, and members of the public with health care issue-area expertise, shall develop and implement the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008.

128310.2. For purposes of this article, the following terms have the following meanings:

(a) “Account” means the Geriatric Social Workers and Marriage and Family Therapists Account that is contained within the fund.

(b) “Board” means the Board of Behavioral Sciences.

(c) “Fund” means the Behavioral Sciences Fund.

(d) “Geriatrics” means the practice of medicine, with training in, and application to, older adults who are 65 years of age or older or those with disabilities.

(e) “Office” means the Office of Statewide Health Planning and Development.

(f) “Program” means the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008.

128310.3. (a) Program applicants shall be registered associate clinical social workers receiving supervision or shall possess a current valid license to practice social work or marriage and family therapy in this state issued by the board pursuant to Section 4980.30 or 4996.1 of the Business and Professions Code.

(b) The office shall develop the guidelines for selection and placement of applicants. The guidelines shall do all of the following:

(1) Provide priority consideration to applicants who are trained in, and practice, geriatric social work or marriage and family therapy, and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

(2) Provide priority consideration to applicants who have recently obtained their license to practice marriage and family therapy or clinical social work or be a registered associate clinical social worker receiving supervision.

1 (3) Give preference to applicants who have completed an
2 internship in geriatric social work or marriage and family therapy.

3 (4) Seek to place the most qualified applicants under this section
4 in the areas with the greatest need.

5 (5) Include a factor ensuring geographic distribution of
6 placements.

7 (6) Ensure that applicants may not discriminate against those
8 who cannot pay for medical services or those who are funded, in
9 part or in whole, by Medicare or Medi-Cal.

10 (c) Program participants shall be working in, or have a signed
11 agreement with, an eligible practice setting. The program
12 participant shall have full-time status, as defined by the office. The
13 office may establish exemptions to this requirement on a
14 case-by-case basis.

15 (d) Program participants shall commit to a minimum of three
16 years of service in a geriatric care setting. Leaves of absence shall
17 be permitted for serious illnesses, pregnancy, or other natural
18 causes. The office shall develop the process for determining the
19 maximum permissible length of an absence and the process for
20 reinstatement. Loan repayment shall be deferred until the
21 participant is back to full-time status.

22 (e) The office shall develop the process should a participant be
23 unable to complete his or her three-year obligation.

24 (f) The office shall develop a process for outreach to potentially
25 eligible applicants.

26 (g) The office may adopt any other standards of eligibility,
27 placement, or termination appropriate to achieve the aim of
28 providing competent social services in geriatrics.

29 128310.4. (a) The Geriatric Social Workers and Marriage and
30 Family Therapists Account is hereby created in the fund.

31 (b) Funding for the account shall be from fees paid at the time
32 of initial licensure or renewal pursuant to Sections 4984.75 and
33 4996.66 of the Business and Professions Code.

34 (c) Funds placed into the account shall be used by the office to
35 repay the loans of program participants pursuant to agreements
36 made under the program.

37 (1) Funds paid out for loan repayment may have a funding match
38 from foundation or other private sources.

39 (2) Loan repayments shall not exceed thirty thousand dollars
40 (\$30,000) per program participant.

1 (3) Loan repayments shall not exceed the amount of the
2 educational loans incurred by the program participant.

3 (d) Notwithstanding Section 11005 of the Government Code,
4 the office may seek and receive matching funds from foundations
5 and private sources to be placed into the account. The office also
6 may contract with an exempt foundation for the receipt of matching
7 funds to be transferred to the account for use by this program.

8 128310.5. The terms of loan repayment granted under this
9 article shall be as follows:

10 (a) After a program participant has completed one year of
11 providing services as a licensed marriage and family therapist or
12 a licensed or associate clinical social worker in a geriatric setting,
13 the office shall provide up to seven thousand five hundred dollars
14 (\$7,500) for loan repayment.

15 (b) After a program participant has completed two consecutive
16 years of providing services as a licensed marriage and family
17 therapist or a licensed or associate clinical social worker in a
18 geriatric setting, the office shall provide up to an additional ten
19 thousand dollars (\$10,000) of loan repayment, for a total loan
20 repayment of up to seventeen thousand five hundred dollars
21 (\$17,500).

22 (c) After a program participant has completed three consecutive
23 years of providing services as a licensed marriage and family
24 therapist or a licensed or associate clinical social worker in a
25 geriatric setting, the office shall provide up to a maximum of an
26 additional twelve thousand five hundred dollars (\$12,500) of loan
27 repayment, for a total loan repayment of up to thirty thousand
28 dollars (\$30,000).

29 128310.6. (a) On and after January 1, 2010, applications from
30 marriage and family therapists, registered associate social workers,
31 and licensed social workers for program participation may be
32 submitted.

33 (b) The office may work in conjunction with the Health
34 Professions Education Fund in the implementation and
35 administration of this program.

36 (c) The office may promulgate emergency regulations to
37 implement the program.

38 *SEC. 8. Section 128552 of the Health and Safety Code is*
39 *amended to read:*

1 128552. For purposes of this article, the following definitions
2 shall apply:

3 (a) “Account” means the Medically Underserved Account for
4 Physicians established within the Health Professions Education
5 Fund pursuant to this article.

6 (b) “Foundation” means the Health Professions Education
7 Foundation.

8 (c) “Fund” means the Health Professions Education Fund.

9 (d) “Medi-Cal threshold languages” means primary languages
10 spoken by limited-English-proficient (LEP) population groups
11 meeting a numeric threshold of 3,000, eligible LEP Medi-Cal
12 beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP
13 beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal
14 beneficiaries residing in two contiguous ZIP Codes.

15 (e) “Medically underserved area” means an area defined as a
16 health professional shortage area in Part 5 of Subchapter A of
17 Chapter 1 of Title 42 of the Code of Federal Regulations or an
18 area of the state where unmet priority needs for physicians exist
19 as determined by the California Healthcare Workforce Policy
20 Commission pursuant to Section 128225.

21 (f) “Medically underserved population” means the Medi-Cal
22 program, Healthy Families Program, and uninsured populations.

23 (g) “Office” means the Office of Statewide Health Planning and
24 Development (OSHPD).

25 (h) “Physician Volunteer Program” means the Physician
26 Volunteer Registry Program established by the Medical Board of
27 California.

28 (i) “Practice setting” means either of the following:

29 (1) A community clinic as defined in subdivision (a) of Section
30 1204 and subdivision (c) of Section 1206, a clinic owned or
31 operated by a public hospital and health system, or a clinic owned
32 and operated by a hospital that maintains the primary contract with
33 a county government to fulfill the county’s role pursuant to Section
34 17000 of the Welfare and Institutions Code, which is located in a
35 medically underserved area and at least 50 percent of whose
36 patients are from a medically underserved population.

37 (2) A medical practice located in a medically underserved area
38 and at least 50 percent of whose patients are from a medically
39 underserved population.

1 (j) “Primary specialty” means family practice, internal medicine,
2 pediatrics, *geriatrics*, or obstetrics/gynecology.

3 (k) “Program” means the Steven M. Thompson Physician Corps
4 Loan Repayment Program.

5 (l) “Selection committee” means a minimum three-member
6 committee of the board, that includes a member that was appointed
7 by the Medical Board of California.

8 *SEC. 9. Section 128553 of the Health and Safety Code is*
9 *amended to read:*

10 128553. (a) Program applicants shall possess a current valid
11 license to practice medicine in this state issued pursuant to Section
12 2050 of the Business and Professions Code.

13 (b) The foundation, in consultation with those identified in
14 subdivision (b) of Section 123551, shall use guidelines developed
15 by the Medical Board of California for selection and placement
16 of applicants until the office adopts other guidelines by regulation.

17 (c) The guidelines shall meet all of the following criteria:

18 (1) Provide priority consideration to applicants that are best
19 suited to meet the cultural and linguistic needs and demands of
20 patients from medically underserved populations and who meet
21 one or more of the following criteria:

22 (A) Speak a Medi-Cal threshold language.

23 (B) Come from an economically disadvantaged background.

24 (C) Have received significant training in cultural and
25 linguistically appropriate service delivery.

26 (D) Have three years of experience working in medically
27 underserved areas or with medically underserved populations.

28 (E) Have recently obtained a license to practice medicine.

29 (2) Include a process for determining the needs for physician
30 services identified by the practice setting and for ensuring that the
31 practice setting meets the definition specified in subdivision (h)
32 of Section 128552.

33 (3) Give preference to applicants who have completed a
34 three-year residency in a primary specialty.

35 (4) Seek to place the most qualified applicants under this section
36 in the areas with the greatest need.

37 (5) Include a factor ensuring geographic distribution of
38 placements.

39 (d) (1) The foundation may appoint a selection committee that
40 provides policy direction and guidance over the program and that

1 complies with the requirements of subdivision (l) of Section
2 128552.

3 (2) The selection committee may fill up to 20 percent of the
4 available positions with program applicants from specialties outside
5 of the primary care specialties.

6 (3) *The selection committee shall fill 15 percent of the available*
7 *positions with program applicants that agree to practice in a*
8 *geriatric care setting. Priority consideration shall be given to*
9 *applicants who are trained in, and practice, geriatrics, and who*
10 *can meet the cultural and linguistic needs and demands of diverse*
11 *populations of older Californians.*

12 (e) Program participants shall meet all of the following
13 requirements:

14 (1) Shall be working in or have a signed agreement with an
15 eligible practice setting.

16 (2) Shall have full-time status at the practice setting. Full-time
17 status shall be defined by the board and the selection committee
18 may establish exemptions from this requirement on a case-by-case
19 basis.

20 (3) Shall commit to a minimum of three years of service in a
21 medically underserved area. Leaves of absence shall be permitted
22 for serious illness, pregnancy, or other natural causes. The selection
23 committee shall develop the process for determining the maximum
24 permissible length of an absence and the process for reinstatement.
25 Loan repayment shall be deferred until the physician is back to
26 full-time status.

27 (f) The office shall adopt a process that applies if a physician
28 is unable to complete his or her three-year obligation.

29 (g) The foundation, in consultation with those identified in
30 subdivision (b) of Section 128551, shall develop a process for
31 outreach to potentially eligible applicants.

32 (h) The foundation may recommend to the office any other
33 standards of eligibility, placement, and termination appropriate to
34 achieve the aim of providing competent health care services in
35 approved practice settings.

36 SEC. 10. Chapter 6 (commencing with Section 128559) is
37 added to Part 3 of Division 107 of the Health and Safety Code, to
38 read:

1 CHAPTER 6. CALIFORNIA GERIATRIC AND GERONTOLOGY
2 STUDENT LOAN ASSISTANCE PROGRAM OF 2008
3

4 128559. This chapter shall be known and may be cited as the
5 California Geriatric and Gerontology Student Loan Assistance
6 Program of 2008.

7 128559.1. It is the intent of this chapter that the Office of
8 Statewide Health Planning and Development, in consultation with
9 the Medical Board of California, state allied health professional
10 and behavioral sciences licensing boards, postsecondary schools
11 of health sciences and social work, health advocates representing
12 diverse ethnic communities, primary care clinics, public hospitals
13 and health care systems, statewide agencies administering state
14 and federally funded programs targeting treatment and services
15 for older adults, and members of the public with health care
16 issue-area expertise, shall develop and implement the program.

17 128559.2. (a) There is hereby established in the Office of
18 Statewide Health Planning and Development, the California
19 Geriatric and Gerontology Student Loan Assistance Program of
20 2008.

21 (b) The Office of Statewide Health Planning and Development
22 shall operate the program in accordance with, but not limited to,
23 the following:

24 (1) Increased efforts in educating students trained in geriatrics
25 and gerontology of the need for health care and social work
26 professionals to meet the demands of the exponential increase in
27 the older adult population, and of programs that are available that
28 provide incentives, financial and otherwise, to practice in settings
29 and areas in need.

30 (2) Strategic collaboration with California postsecondary schools
31 of health sciences and social work to better prepare health care
32 professionals and social workers to meet the distinctive cultural
33 and medical needs of California's older adult populations.

34 (3) Establish, encourage, and expand programs for students of
35 the health care and social work professions for mentoring at
36 primary and secondary schools, and college levels to increase the
37 number of students entering the studies of health professions and
38 social work with a concentration in geriatrics or gerontology.

1 (4) Administer financial or other incentives to encourage new
2 or experienced health care professionals and social workers to
3 practice in the fields of geriatrics and gerontology.

4 128559.3. For purposes of this chapter:

5 (a) "Office" means the Office of Statewide Health Planning and
6 Development.

7 (b) "Program" means the California Geriatric and Gerontology
8 Student Loan Assistance Program of 2008.

9 128559.4. (a) The office shall administer the program. Any
10 individual enrolled in an institution of postsecondary education
11 participating in the programs set forth in this chapter may be
12 eligible to receive a conditional warrant for loan repayment, to be
13 redeemed upon becoming employed as a licensed health
14 professional, marriage and family therapist, or social worker or
15 registered associate social worker in a setting serving primarily
16 older adult populations. In order to be eligible to receive a
17 conditional loan repayment warrant, an applicant shall satisfy all
18 of the following conditions:

19 (1) The applicant has been judged by his or her postsecondary
20 institution to have outstanding ability on the basis of criteria that
21 may include, but not be limited to, any of the following:

22 (A) Grade point average.

23 (B) Test scores.

24 (C) Faculty evaluations.

25 (D) Interviews.

26 (E) Other recommendations.

27 (2) In order to meet the costs associated with obtaining a health
28 professional or social work degree, the applicant has received, or
29 is approved to receive, a loan under one or more of the following
30 designated loan programs:

31 (A) The Federal Family Education Loan Program (10 U.S.C.
32 Sec. 1071 et seq.).

33 (B) Any loan program approved by the Student Aid
34 Commission.

35 (3) The applicant has agreed to provide services as a licensed
36 health professional, marriage and family therapist, or social worker,
37 or to be registered as an associate clinical social worker with
38 satisfactory progress toward licensure, for up to three consecutive
39 years, after obtaining a license or associate registration from the
40 applicable state health professional or behavioral science licensing

1 board, in a setting providing health or social services primarily to
2 older adults.

3 (4) The applicant has agreed that he or she shall not discriminate
4 against any patient or client who cannot pay for services or those
5 who are funded, in part or in whole, by Medicare or Medi-Cal.

6 (b) The office shall ensure that priority consideration be given
7 to applicants who are best suited to meet the cultural and linguistic
8 needs and demands of geriatric populations and who meet one or
9 more of the following criteria:

10 (1) Have received significant training in cultural and
11 linguistically appropriate service delivery.

12 (2) Have done a clinical rotation or social work internship, of
13 at least two semesters, serving older adult populations.

14 (c) A person participating in the program pursuant to this chapter
15 shall not receive more than one warrant.

16 (d) The office shall adopt rules and regulations regarding the
17 reallocation of warrants if a participating institution is unable to
18 utilize its allocated warrants or is unable to distribute them within
19 a reasonable time period.

20 128559.5. (a) The office shall develop the process to redeem
21 an applicant's warrant and commence loan repayment.

22 (b) The office shall distribute student applications to participate
23 in the program to postsecondary institutions eligible to participate
24 in the state and federal financial aid programs and that have a
25 program of professional preparation for health care professionals,
26 social workers, or marriage and family therapists.

27 (c) Each participating institution shall sign an institutional
28 agreement with the office, certifying its intent to administer the
29 program according to all applicable published rules, regulations,
30 and guidelines, and shall make special efforts to notify students
31 regarding the availability of the program particularly to
32 economically disadvantaged students.

33 (d) To the extent feasible, the office and each participating
34 institution shall coordinate this program with other existing
35 programs designed to recruit or encourage students to enter the
36 health care, social work, or marriage and family therapy profession.
37 These programs shall include, but not be limited to, the following:

38 (1) The Song-Brown Family Physician Training Act (Article 1
39 (commencing with Section 128200) of Chapter 4).

1 (2) The Health Education and Academic Loan Act (Article 2
2 (commencing with Section 128250) of Chapter 4).

3 (3) The National Health Service Corps.

4 128559.6. (a) The office shall administer the program and
5 shall adopt rules and regulations for that purpose. The rules and
6 regulations shall include, but not be limited to, provisions regarding
7 the period of time for which a warrant shall remain valid, the
8 reallocation of warrants that are not utilized, and the development
9 of projections for funding purposes.

10 (b) The office shall work in conjunction with lenders
11 participating in federal or similar loan programs to develop a
12 streamlined application process for participation in the program.

13 128559.7. (a) The office shall establish a fund to utilize for
14 the purposes of this chapter.

15 (b) The office may seek matching funds from foundations and
16 private sources. The office may also contract with an exempt
17 foundation for the receipt of matching funds to be transferred to
18 the fund for use by this program.

19 (c) The provisions of this chapter shall not become operative
20 unless appropriate funding, as determined by the office, is made
21 available.

22 128559.8. (a) On or before January 31 of each year, the office
23 shall provide an annual report to the Legislature regarding the
24 program that includes all of the following:

25 (1) The number of program participants by profession.

26 (2) Practice locations.

27 (3) The amount expended for the program.

28 (4) Information on annual performance reviews by the practice
29 setting and program participants.

30 (5) An evaluation of the program's effectiveness in improving
31 access to health and social services for older adults.

32 (6) Recommendations for maintaining or expanding the program.

33 (b) This section shall become operative on January 1, 2010.

34 *SEC. 11. Sections 8 and 9 of this act shall become operative*
35 *only if Assembly Bill 2439 of the 2007–08 Regular Session is*
36 *enacted and becomes effective on or before January 1, 2009.*

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Scott	BILL NUMBER:	SB 1288
SPONSOR:	California State University	BILL STATUS:	Senate Education
SUBJECT:	California State University: Doctor or Nursing Practice degree	DATE LAST AMENDED:	Introduced 02/19/08

SUMMARY:

Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. Existing law requires the California State University to offer undergraduate and graduate instruction through the master's degree in the liberal arts and sciences and professional education, including teacher education. This bill would add an Act to the Education Code, relating to nursing degrees.

ANALYSIS:

This bill would authorize the California State University to award the Doctor of Nursing Practice degree. The bill would limit the authority to award the Doctor of Nursing Practice degree to the discipline of nursing practice and distinguish the Doctor of Nursing Practice degree from research-based doctoral degrees at the University of California.

The bill would require that the Doctor of Nursing Practice degree programs educate nurses for advanced nursing practice, prepare faculty to teach in postsecondary nursing education programs, and enable professionals to earn the degree while working full time. The bill would also require the California State University to seek nonstate funding to establish the program and implement the program when sufficient funding is available.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Senator Scott

February 19, 2008

An act to add Article 9 (commencing with Section 89280) to Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code, relating to nursing degrees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1288, as introduced, Scott. California State University: Doctor of Nursing Practice degree.

Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. Existing law requires the California State University to offer undergraduate and graduate instruction through the master's degree in the liberal arts and sciences and professional education, including teacher education.

This bill would, notwithstanding existing law, authorize the California State University to award the Doctor of Nursing Practice degree. The bill would limit the authority to award the Doctor of Nursing Practice degree to the discipline of nursing practice and distinguish the Doctor of Nursing Practice degree from research-based doctoral degrees at the University of California. The bill would require that the Doctor of Nursing Practice degree programs train nurses for advanced nursing practice, prepare faculty to teach in postsecondary nursing education programs, and enable professionals to earn the degree while working full time. The bill would require the California State University to seek nonstate funding to establish the program and implement the program when sufficient funding is available.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 9 (commencing with Section 89280) is added to Chapter 2 of Part 55 of Division 8 of Title 3 of the Education Code, to read:

Article 9. Doctor of Nursing Practice Degree

89280. (a) Notwithstanding Section 66010.4, in order to meet specific nursing education needs in California, the California State University may award the Doctor of Nursing Practice degree, as described in this section.

(b) The authority to award the Doctor of Nursing Practice degree shall be limited to the discipline of nursing practice. The Doctor of Nursing Practice degree offered by the California State University shall be distinguished from research-based doctoral degrees at the University of California.

(c) The Doctor of Nursing Practice degree program offered by the California State University shall train nurses for advanced nursing practice and prepare faculty to teach in postsecondary nursing education programs. The degree programs shall enable professionals to earn the degree while working full time.

(d) The California State University shall seek nonstate funding to establish the Doctor of Nursing Practice degree program and shall implement the program when sufficient funding is available.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Negrete McLeod	BILL NUMBER:	SB 1487
SPONSOR:	American Diabetes Association	BILL STATUS:	Senate Health
SUBJECT:	Emergency medical services: diabetes	DATE LAST AMENDED:	Introduced 02/21/08

SUMMARY:

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia. Existing law requires the State Department of Health Services' Diabetes Prevention and Control Program to approve performance standards and make them available upon request. This bill would amend a section of the Education Code, relating to pupil health.

ANALYSIS:

This bill would authorize school personnel who **volunteer** and are trained, to provide emergency care to students with diabetes suffering from severe hypoglycemia, and be permitted to administer insulin to students with diabetes who require insulin during the regular school day, in the absence of a credentialed school nurse or other licensed nurse onsite at the school. A school employee who does not volunteer or receive training would not be required to provide emergency care to students.

The bill would require emergency care for students with diabetes suffering from severe hypoglycemia, including administering glucagon, to be provided in accordance with the glucagon training standards for school personnel adopted by the California Diabetes Program in May of 2006.

This bill declares that the Legislature **encourages** the American Diabetes Association to develop performance standards for the training and supervision of school personnel in administering insulin to students with diabetes. These standards would be developed in collaboration with the California Department of Public Health, California Diabetes Program, the California Medical Association, and the American Academy of Pediatrics. The training would include:

- Recognition and treatment of hyperglycemia.
- Administration of blood glucose checks.

- Administration of insulin through common delivery methods, including syringes, insulin pens, and insulin pumps.

The training would be conducted by a physician, credentialed school nurse, registered nurse, or certified public health nurse.

The bill would also provide for a student to self-test and monitor his or her blood glucose level and provide diabetes self-care in the classroom or another area in the school.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Senator Negrete McLeod

February 21, 2008

An act to amend Section 49414.5 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1487, as introduced, Negrete McLeod. Emergency medical services: diabetes.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia. Existing law requires the State Department of Health Services' Diabetes Prevention and Control Program to approve performance standards and make them available upon request.

This bill would authorize school personnel who volunteer to administer insulin to pupils with diabetes who require insulin during the regular school day, as defined, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, subject to specified requirements. The bill would require the California Department of Public Health, California Diabetes Program to approve performance standards for distribution and make those standards available upon request. The bill would revise training requirements, and would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 49414.5 of the Education Code is amended to read:

49414.5. (a) ~~In the absence of a credentialed school nurse or other licensed nurse onsite at the school, each school district may provide school personnel with voluntary emergency medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia, and volunteer~~ *Notwithstanding any other provision of law, school personnel who volunteer and are trained to do so may provide emergency care to pupils with diabetes suffering from severe hypoglycemia and may administer insulin to pupils with diabetes who require insulin during the regular school day, as defined in subdivision (g) of Section 601 of Title 5 of the California Code of Regulations, in the absence of a credentialed school nurse or other licensed nurse onsite at the school. School personnel shall provide this emergency care, in accordance with standards established pursuant to subdivision (b) and the performance instructions set forth by the licensed health care provider of the pupil. The school also shall obtain the statements required by subdivision (a) of Section 49423.*

A school employee who does not volunteer or who has not been trained pursuant to subdivision (b) ~~may~~ *shall* not be required to provide emergency medical assistance pursuant to this subdivision.

(b) (1) *Emergency care for pupils with diabetes suffering from severe hypoglycemia, including administering glucagon, shall be provided in accordance with the glucagon training standards for school personnel adopted by the California Diabetes Program in May of 2006.*

(2) The Legislature encourages the American Diabetes Association to develop performance standards for the training and supervision of school personnel in ~~providing emergency medical assistance administering insulin to pupils with diabetes suffering from severe hypoglycemia.~~ The performance standards shall be developed in cooperation with the department, ~~the California School Nurses Organization,~~ the California Medical Association, and the American Academy of Pediatrics. Upon the development of the performance standards pursuant to this ~~paragraph subparagraph,~~ the State Department of Health Services' Diabetes Prevention and Control *California Department of Public Health,*

1 *California Diabetes* Program shall approve the performance
2 standards for distribution and make those standards available upon
3 request.

4 ~~(2)~~

5 Training established pursuant to this ~~subdivision~~ *subparagraph*
6 shall include all of the following:

7 (A) Recognition and treatment of ~~hypoglycemia~~ *hyperglycemia*.

8 (B) Administration of ~~glucagon~~ *blood glucose checks*.

9 ~~(C) Basic emergency followup procedures, including, but not~~
10 ~~limited to, calling the emergency 911 telephone number and~~
11 ~~contacting, if possible, the pupil's parent or guardian and licensed~~
12 ~~health care provider~~ *Administration of insulin through common*
13 *delivery methods, including syringes, insulin pens, and insulin*
14 *pumps.*

15 (3) ~~Training~~ *Notwithstanding any other provision of law,*
16 *training* by a physician, credentialed school nurse, registered nurse,
17 or certificated public health nurse according to the standards
18 established pursuant to this section shall be deemed adequate
19 training for the purposes of this section.

20 (4) (A) A school employee shall notify the credentialed school
21 nurse assigned to the school district if he or she administers
22 glucagon pursuant to this section.

23 (B) If a credentialed school nurse is not assigned to the school
24 district, the school employee shall notify the superintendent of the
25 school district, or his or her designee, if he or she administers
26 glucagon pursuant to this section.

27 (5) All materials necessary to administer the glucagon *or insulin*
28 shall be provided by the parent or guardian of the pupil.

29 (c) In the case of a pupil who is able to self-test and monitor his
30 or her blood glucose level, upon written request of the parent or
31 guardian, and with authorization of the licensed health care
32 provider of the pupil, a pupil with diabetes shall be permitted to
33 test his or her blood glucose level and to otherwise provide diabetes
34 self-care in the classroom, in ~~any~~ *an* area of the school or school
35 grounds, during ~~any~~ *a* school-related activity, and, upon specific
36 request by a parent or guardian, in a private location.

37 (d) For ~~the~~ purposes of this section, the following terms have
38 the following meanings:

1 (1) “School personnel” means any one or more employees of a
2 school district who volunteers to be trained to administer
3 emergency medical assistance to a pupil with diabetes.

4 (2) “Emergency medical assistance” means the administration
5 of glucagon to a pupil who is suffering from severe hypoglycemia.

6 *(e) Individuals with diabetes who qualify for related health*
7 *services, including administration of insulin and glucagon, under*
8 *the federal Individuals with Disabilities Education Improvement*
9 *Act (20 U.S.C. Sec. 1400) and its implementing regulations, or*
10 *under Section 504 of the federal Rehabilitation Act of 1973 (29*
11 *U.S.C. Sec. 794) and its implementing regulations, shall be*
12 *provided with those services pursuant to the pupil’s individualized*
13 *education program or the plan adopted pursuant to Section 504*
14 *of the federal Rehabilitation Act of 1973.*

15 *(f) It is the intent of the Legislature that Section 1799.102 of*
16 *the Health and Safety Code applies to the activities authorized by*
17 *this section.*

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Cedillo	BILL NUMBER:	SB 1521
SPONSOR:	California School Nurses Association	BILL STATUS:	Senate Education
SUBJECT:	School nurse loan assumption program	DATE LAST AMENDED:	03/27/08

SUMMARY:

Existing law provides for the assumption of certain student loans of students who agree to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with other specified characteristics. This bill would add an article to the Education Code relating to school nurses.

ANALYSIS:

This bill would provide for the assumption of student loans for students who agree to be employed as a school nurse in schools that meet any of the following criteria:

- Serves a large population of students from low-income families.
- Have a high percentage of teachers holding emergency permits (20 percent or more).
- Is a high-priority school (low performing).

The bill would provide for any person enrolled in an eligible institution, or any person who agrees to participate in an approved nursing program, could be eligible to enter into an agreement for loan assumption, to be redeemed upon becoming employed as a school nurse. In order to be eligible to enter into an agreement for loan assumption, an applicant would have to meet certain specifications, including, being admitted into a program of professional preparation approved by the Commission on Teacher Credentialing, and enrolled on at least a half-time basis.

The provisions would require the participant to agree to be employed, in a public elementary or secondary school, full time for at least four consecutive academic years. The Student Aid Commission would assume the participant's outstanding liability up to a maximum of:

- \$2,000 after completion of one school year.
- \$3,000 after two consecutive years.

AMENDED IN SENATE MARCH 27, 2008

SENATE BILL

No. 1521

Introduced by Senator Cedillo

February 22, 2008

An act to add Article 5.3 (commencing with Section 69616) to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, relating to school nurses.

LEGISLATIVE COUNSEL'S DIGEST

SB 1521, as amended, Cedillo. School nurse loan assumption program.

Existing law provides for the assumption of certain student loans of students who agree to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with other specified characteristics.

This bill would provide for the assumption of student loans of students who agree to be employed as a school nurse ~~in schools meeting a school or school district that meets~~ prescribed requirements. It would prescribe requirements relating to amounts to be forgiven under the loan program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 5.3 (commencing with Section 69616) is
- 2 added to Chapter 2 of Part 42 of Division 5 of Title 3 of the
- 3 Education Code, to read:

- \$3,000 after three consecutive years.
- \$3,000 after four consecutive years

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Article 5.3. Assumption Program of Loans for School Nurse
Education

69616. (a) Commencing with the 2009-10 school year a person shall be eligible to enter into an agreement for loan assumption pursuant to this article if he or she needs to complete training or coursework in order to be employed as a school nurse, agrees to work as a school nurse in a school that, at the time that the school nurse is hired, meets any of the following criteria:

(1) Serves a large population of pupils from low-income families.

(2) Has a high percentage of teachers holding emergency permits. For the purposes of this article, a school with a “high percentage of teachers holding emergency permits” is a school in which 20 percent or more of the teachers hold emergency permits, teach pursuant to waivers of credential requirements, or are interns.

(3) Is a high-priority school.

(b) Funding necessary for the administration of this article shall be included within the annual budget of the Student Aid Commission in an amount necessary to meet the student loan obligations incurred by the commission.

69616.2. (a) (1) Any person enrolled in an eligible institution, or any person who agrees to participate in an approved nursing program, may be eligible to enter into an agreement for loan assumption, to be redeemed pursuant to this article, upon becoming employed as a school nurse. In order to be eligible to enter into an agreement for loan assumption, an applicant shall satisfy all of the conditions specified in subdivision (b).

(2) As used in this article, “eligible institution” means any institution that is determined by the Student Aid Commission to meet both of the following requirements:

(A) The institution is eligible to participate in state and federal financial aid programs.

(B) The institution maintains a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(b) (1) The applicant has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

1 (2) The applicant is currently enrolled, or has been admitted to
2 a program in which he or she will be enrolled on at least a half-time
3 basis, as determined by the participating institution. The applicant
4 shall agree to maintain satisfactory academic progress and a
5 minimum of half-time enrollment, as defined by the participating
6 eligible institution.

7 (3) The applicant has been judged by his or her postsecondary
8 institution to have outstanding ability on the basis of criteria that
9 may include, but need not be limited to, any of the following:

10 (A) Grade point average.

11 (B) Test scores.

12 (C) Faculty evaluations.

13 (D) Interviews.

14 (E) Other recommendations.

15 (4) The applicant has received, or is approved to receive, any
16 loan program approved by the Student Aid Commission.

17 (5) The applicant has agreed to be employed full time for at
18 least four consecutive academic years after obtaining appropriate
19 nursing credentials in a public elementary or secondary school in
20 this state, at a school that, at the time that the school nurse is hired,
21 meets any of the following criteria, *or in a public elementary or*
22 *secondary school district in this state that has within it at least*
23 *one school, that is in the nurse's service territory, that at the time*
24 *the nurse is hired, meets any of the following criteria:*

25 (A) It serves a large population of pupils from low-income
26 families, as designated by the Superintendent of Public Instruction.

27 (B) It has 20 percent or more teachers holding emergency
28 permits. For the purposes of this paragraph, "teachers holding
29 emergency permits" includes persons who teach pursuant to
30 waivers of credential requirements or who are interns.

31 (C) It is a low-performing school.

32 (c) No applicant who has not met educational standards for
33 school nurses shall be eligible under this section to participate in
34 the loan assumption program set forth in this article.

35 (d) The agreements entered into each year pursuant to
36 subdivision (b) shall be with applicants who meet the criteria
37 specified in this article.

38 (e) A person participating in the program pursuant to this section
39 shall not enter into more than one agreement.

1 69616.4. (a) The terms of a loan assumption granted under
2 this article shall be as follows, subject to the specific terms of each
3 agreement:

4 (1) After a program participant has completed one school year
5 of employment as a school nurse, the commission shall assume
6 up to two thousand dollars (\$2,000) of the participant's outstanding
7 liability under one or more of the designated loan programs.

8 (2) After a program participant has completed two consecutive
9 school years of employment as a school nurse, the commission
10 shall assume up to an additional three thousand dollars (\$3,000)
11 of the participant's outstanding liability under one or more of the
12 designated loan programs, for a total loan assumption of up to five
13 thousand dollars (\$5,000).

14 (3) After a program participant has completed three consecutive
15 school years of employment as a school nurse, the commission
16 shall assume up to a maximum of an additional three thousand
17 dollars (\$3,000) of the participant's outstanding liability under one
18 or more of the designated loan programs, for a total loan
19 assumption of up to eight thousand dollars (\$8,000).

20 (4) After a program participant has completed four consecutive
21 school years of employment as a school nurse, the commission
22 shall assume up to a maximum of an additional three thousand
23 dollars (\$3,000) of the participant's outstanding liability under one
24 or more of the designated loan programs, for a total loan
25 assumption of up to eleven thousand dollars (\$11,000).

26 (b) For purposes of this section, "school year" means at least
27 175 school days or its equivalent.

28 69616.6. (a) Except as provided in subdivision (b), if a program
29 participant fails to complete a minimum instruction as required by
30 this article, under the terms of the agreement under this article, the
31 participant shall assume full liability for all student loan obligations
32 remaining after the commission's assumption of loan liability for
33 the last year of qualifying service.

34 (b) Notwithstanding subdivision (a), if a program participant
35 becomes unable to complete school nurse education due to serious
36 illness, pregnancy, or other natural causes, the participant shall
37 receive a deferral of the resumption of full liability for the loan
38 for a period not to exceed one calendar year.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Padilla	BILL NUMBER:	SB 1585
SPONSOR:	Padilla	BILL STATUS:	Senate Education
SUBJECT:	California Community Colleges: transfer students	DATE LAST AMENDED:	03/25/08

SUMMARY:

Existing law establishes the 3 segments of public postsecondary education in this state. These segments include the California State University, the campuses of which are administered by the Trustees of the California State University, the University of California, which is administered by the Regents of the University of California, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. Existing law, known as the Donahoe Higher Education Act, requires the regents, the trustees, and the board of governors to have as a fundamental policy the maintenance of a healthy and expanded program to increase transfer students from community colleges. This bill would add and repeal a section of the Education Code.

ANALYSIS:

This bill would express the intent of the Legislature to direct the California Community Colleges to redefine its priorities and goals, seek every possible way to make the most efficient use of the resources provided by the state, and to increase the number of students that transfer to 4-year institutions.

Amended analysis of 3/25/08:

This bill amendment would require each community college district, commencing with the 2009-10 academic year, to increase the number of students that transfer to a baccalaureate degree-granting institution by 5 percent from the previous academic year. It would also require the Board of Governors of the California Community Colleges to assist districts in complying with this requirement.

This amendment would require the California State University and request the University of California, to assess strategic plans and initiatives that address transfer functions and coordinate and lend support to the community colleges to achieve the increased transfer goals

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN SENATE MARCH 25, 2008

SENATE BILL

No. 1585

Introduced by Senator Padilla

February 22, 2008

An act to add and repeal Section 66723 of the Education Code, relating to California Community Colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 1585, as amended, Padilla. California Community Colleges: transfer students.

Existing law establishes the 3 segments of public postsecondary education in this state. These segments include the California State University, the campuses of which are administered by the Trustees of the California State University, the University of California, which is administered by the Regents of the University of California, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. Existing law, known as the Donahoe Higher Education Act, requires the regents, the trustees, and the board of governors to have as a fundamental policy the maintenance of a healthy and expanded program to increase transfer students from community colleges.

This bill would make various legislative findings and declarations related to public higher education at the California Community Colleges. The bill would express the intent of the Legislature to direct the California Community Colleges to redefine its priorities and goals, seek every possible way to make the most efficient use of the resources provided by the state, and to increase the number of students that transfer to 4-year institutions.

The bill would, commencing with the 2009–10 academic year, require each community college district to increase the number of students that transfer to a baccalaureate degree-granting institution by 5% from the previous academic year, thereby imposing a state-mandated local program. The bill would require the California State University, and request the University of California, to assess strategic plans and initiatives that address its transfer function and coordinate and lend support to the community colleges to achieve stated transfer increase goals. These provisions would remain in effect only until the state adopts an accountability framework and production goals for the higher education system.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In order for California to keep up with economic demand
- 4 over the next 20 years, California will have to produce a steady
- 5 increase in the amount of college-educated workers.
- 6 (b) California faces a looming economic crisis as a result of
- 7 workforce shortages due to the impending retirement of a
- 8 generation of baby boomers, shifts in the state's economy, and
- 9 demographic trends.
- 10 (c) The United States Bureau of Labor Statistics estimates that
- 11 43 percent of the United States labor force will be eligible to retire
- 12 between 2004 and 2012.
- 13 (d) The Public Policy Institute of California, in its report,
- 14 "California 2025: Taking on the Future," found all of the following:
- 15 (1) Over the next 20 years, employment will grow by 30 to 40
- 16 percent.

1 (2) There will be a continued decline in the share of
2 manufacturing employment and a steady rise in the share employed
3 in services, particularly in the areas of health, business, educational
4 services, professional entertainment, and recreation.

5 (3) Demand for workers with a high school education or less
6 will fall and demand for those with associate, bachelor, and
7 advanced degrees will rise.

8 (4) ~~Latino~~ *Students of color* will make up an increasing share
9 of the workforce and they are a group that now has lower levels
10 of education.

11 (e) Most Californians who access public postsecondary
12 education do so at California Community Colleges. The Institute
13 for Higher Education Leadership and Policy found that:

14 (1) Seventy-three percent of undergraduate students in California
15 attend a community college.

16 (2) Ten percent of the students who intend to get a two-year
17 degree actually achieve this goal.

18 (3) Twenty-five percent of the students who intend to transfer
19 to a four-year institution actually achieve this goal.

20 SEC. 2. It is the intent of the Legislature to direct the California
21 Community Colleges to redefine its priorities and goals, seek every
22 possible way to make the most efficient use of the resources
23 provided by the state, and to increase the number of students that
24 transfer to four-year institutions.

25 SEC. 3. *Section 66723 is added to the Education Code, to read:*
26 *66723. (a) Commencing with the 2009–10 academic year,*
27 *each community college district shall increase the number of*
28 *students that transfer to a baccalaureate degree-granting*
29 *institution by 5 percent from the previous academic year.*

30 *(b) The Board of Governors of the California Community*
31 *Colleges shall assist districts in complying with subdivision (a)*
32 *and in cooperating with the California State University and the*
33 *University of California.*

34 *(c) The California State University shall, and the University of*
35 *California is requested to, do all of the following:*

36 *(1) Assess all strategic plans and initiatives within its*
37 *jurisdiction that address the transfer function and report to the*
38 *Legislature within three months of the assessment.*

1 (2) *Coordinate with and lend support to the California*
2 *Community Colleges to achieve the transfer increase goals*
3 *specified in subdivision (a)*

4 (d) *The California Community Colleges shall implement the*
5 *requirements of this section in a budget-neutral manner.*

6 SEC. 4. *If the Commission on State Mandates determines that*
7 *this act contains costs mandated by the state, reimbursement to*
8 *local agencies and school districts for those costs shall be made*
9 *pursuant to Part 7 (commencing with Section 17500) of Division*
10 *4 of Title 2 of the Government Code.*

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Ashburn	BILL NUMBER:	SB 1620
SPONSOR:	Ashburn	BILL STATUS:	Senate Education
SUBJECT:	Community colleges: nursing faculty	DATE LAST AMENDED:	03/25/08

SUMMARY:

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014.

Existing law requires the board of governors to adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction taught by full-time instructors.

ANALYSIS:

This bill would delete the limitation that full-time clinical nursing faculty or part-time nursing faculty be employed for not more than 4 semesters or 6 quarters, between July 1, 2007, and June 30, 2014. This bill would acknowledge that the Legislature recognizes the policy of the boards of governors that at least 75 percent of the hours of credit instruction, should be taught by full-time instructors, and specifies requirements for Districts that fall below the 75 percent.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN SENATE MARCH 25, 2008

SENATE BILL

No. 1620

Introduced by Senator Ashburn

February 22, 2008

An act to ~~add Section 78260.5 to~~ *amend Sections 87482, 87482.6, and 87482.7* of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 1620, as amended, Ashburn. Community colleges: nursing faculty.

~~Existing~~

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts. Existing law creates various programs for purposes of facilitating the recruitment and retention of qualified nursing faculty.

~~This bill would express the intent of the Legislature to enact legislation related to community college faculty hiring requirements.~~

Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014.

This bill would delete the limitation that temporary clinical nursing faculty be employed for not more than 4 semesters or 6 quarters. The bill would make conforming changes.

(2) Existing law requires the board of governors to adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction taught by full-time instructors.

This bill would exclude the percentage of hours of credit instruction taught by full-time nursing faculty from the minimum standards and would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 87482 of the Education Code is amended
2 to read:

3 87482. (a) (1) Notwithstanding Section 87480, the governing
4 board of a community college district may employ any qualified
5 individual as a temporary faculty member for a complete school
6 year but not less than a complete semester or quarter during a
7 school year. The employment of those persons shall be based upon
8 the need for additional faculty during a particular semester or
9 quarter because of the higher enrollment of students during that
10 semester or quarter as compared to the other semester or quarter
11 in the academic year, or because a faculty member has been granted
12 leave for a semester, quarter, or year, or is experiencing long-term
13 illness, and shall be limited, in number of persons so employed,
14 to that need, as determined by the governing board.

15 (2) Employment of a person under this subdivision may be
16 pursuant to contract fixing a salary for the entire semester or
17 quarter.

18 (b) No person, other than a person serving as clinical nursing
19 faculty ~~and exempted from this subdivision pursuant to paragraph~~
20 ~~(4) of subdivision (c)~~, shall be employed by any one district under
21 this section for more than two semesters or three quarters within
22 any period of three consecutive years.

23 (c) (1) Notwithstanding subdivision (b), a person serving as
24 full-time clinical nursing faculty or as part-time clinical nursing
25 faculty teaching 60 percent or more of the hours per week
26 considered a full-time assignment for regular employees may be

employed by any one district under this section ~~for up to four semesters or six quarters within any period of three consecutive academic years~~ between July 1, 2007, and June 30, 2014, inclusive.

(2) A district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to how many faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for each of the three academic years prior to the hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30, 2012.

(3) The chancellor shall report, in writing, to the Legislature and the Governor on or before September 30, 2012, in accordance with data received pursuant to paragraph (2), how many districts hired faculty under this subdivision, how many faculty members were hired under this subdivision, and what the ratio of full-time to part-time faculty was for these districts in each of the three academic years prior to the operation of this subdivision and for each academic year for which faculty is hired under this subdivision.

~~(4) A district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.~~

SEC. 2. *Section 87482.6 of the Education Code is amended to read:*

87482.6. (a) Until the provisions of Section 84750 regarding program-based funding are implemented by a standard adopted by the board of governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors, the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors. To this end, community college districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply a portion of the program improvement allocation received pursuant to Section 84755 as follows:

(1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their hours of credit instruction taught

1 by full-time instructors shall apply up to 33 percent of their
2 program improvement allocation as necessary to reach the 75
3 percent standard. If a district in this category chooses instead not
4 to improve its percentage, the board of governors shall withhold
5 33 percent of the district's program improvement allocation.

6 (2) Districts which, in the prior fiscal year, had less than 67
7 percent of their hours of credit instruction taught by full-time
8 instructors shall apply up to 40 percent of their program
9 improvement allocation as necessary to reach the 75 percent
10 standard. If a district in this category chooses instead not to
11 improve its percentage, the board of governors shall withhold 40
12 percent of the district's program improvement allocation.

13 Districts which maintain 75 percent or more of their hours of
14 credit instruction taught by full-time instructors shall otherwise
15 be free to use their program improvement allocation for any of the
16 purposes specified in Section 84755.

17 (b) The board of governors shall adopt regulations for the
18 effective administration of this section. Unless and until amended
19 by the board of governors, the regulations shall provide as follows:

20 (1) In computing the percentage of hours of credit instruction
21 taught by full-time instructors, the hours of overload teaching by
22 full-time instructors shall be excluded from both the total hours
23 of credit instruction taught by full-time and part-time instructors
24 and the total hours of instruction taught by full-time instructors.

25 (2) A full-time instructor shall be defined as any regular and
26 contract faculty member teaching credit instruction.

27 (3) The chancellor shall compute and report to each community
28 college district the number of full-time faculty (FTF) which are to
29 be secured through the use of the prescribed portion of program
30 improvement revenue allocated to each district. This computation
31 shall be made by dividing the applicable portion of program
32 improvement revenue (0 percent, 33 percent, or 40 percent of the
33 program improvement allocation), by the statewide average
34 "replacement cost" (a figure which represents the statewide average
35 faculty salary plus benefits, minus the statewide average hourly
36 rate of compensation for part-time instructors times the statewide
37 average full-time teaching load). If the quotient is not a whole
38 number, then the quotient shall be rounded down to the nearest
39 whole number. If this quotient, once applied, will result in the
40 district exceeding the 75 percent standard, the chancellor shall

1 further reduce the quotient to a whole number that will leave the
2 district as close as possible to, but in excess of, the 75 percent
3 standard.

4 By March 15th of each year, the chancellor shall report to each
5 district an estimate of the number of FTF to be secured based upon
6 the appropriation of revenues contained in the annual Budget Bill.

7 (4) On or before December 31, 1991, the chancellor shall
8 determine the extent to which each district, by September 30, 1991,
9 has hired the number of FTF determined pursuant to paragraph
10 (3) for the 1989–90 and 1990–91 fiscal years. To the extent that
11 the cumulative number of FTF have not been retained, the
12 chancellor shall reduce the district's base budget for 1991–92 and
13 subsequent fiscal years by an amount equivalent to the average
14 replacement cost times the deficiency in the number of FTF.

15 *(c) For purposes of this section, the percentage of hours of*
16 *credit instruction shall exclude the hours taught by part-time and*
17 *full-time nursing faculty.*

18 SEC. 3. Section 87482.7 of the Education Code is amended to
19 read:

20 87482.7. (a) The board of governors shall, pursuant to
21 paragraph (6) of subdivision (b) of Section 70901, adopt regulations
22 that establish minimum standards regarding the percentage of hours
23 of credit instruction that shall be taught by full-time instructors.

24 (b) Upon notification by the board of governors, the Department
25 of Finance shall transfer any money deducted from district
26 apportionments pursuant to the regulations adopted under this
27 section. This money shall be transferred to the Employment
28 Opportunity Fund pursuant to Section 87107.

29 *(c) The minimum standards established under subdivision (a)*
30 *shall exclude the hours of credit instruction taught by part-time*
31 *and full-time nursing faculty.*

32 ~~SECTION 1. Section 78260.5 is added to the Education Code,~~
33 ~~to read:~~

34 ~~78260.5. It is the intent of the Legislature to enact legislation~~
35 ~~related to community college faculty hiring requirements.~~

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Yee	BILL NUMBER:	SB 1721
SPONSOR:	California Nurses Association	BILL STATUS:	Senate Health
SUBJECT:	Health facilities: direct care nurses	DATE LAST AMENDED:	Introduced 02/22/08

SUMMARY:

Under existing law, the Department of Consumer Affairs, Board of Registered Nursing regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. A violation of these provisions is a crime.

ANALYSIS:

This bill would require every direct care registered nurse (including casual, per diem, temporary agency, registry, and traveler staff, hired by an acute care hospital, to:

- Receive and complete an orientation to the hospital and patient care unit or clinical area in which he or she would be working.
- Demonstrate competency in providing patient care in the assigned clinical area for a minimum of five shifts, with competency validation by another direct care registered nurse.

This bill would require a registered nurse, who is competent in the patient population that the new hire would be working in, to be the observing direct care nurse for the purpose of validating the competency of the new nurse. He/she would observe the new hire, to assess if he/she provides nursing care according to the nursing process and complies with the Standards of Competent Performance as noted in the Nursing Practice Act.

The new nurse would be considered to be in orientation, and not calculated in the nurse-to-patient ratio, until he/she completed the hospital orientation and competence was validated.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

Introduced by Senator Yee

February 22, 2008

An act to add Section 1276.45 to the Health and Safety Code, relating to direct care nurses.

LEGISLATIVE COUNSEL'S DIGEST

SB 1721, as introduced, Yee. Health facilities: direct care nurses.

Under existing law, the Department of Consumer Affairs, Board of Registered Nursing regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. A violation of these provisions is a crime.

This bill would require each new direct care registered nursing hire to receive and complete an orientation to the hospital and patient care unit in which he or she will be working. It would preclude a nurse who has not completed this orientation from being assigned direct patient care, and would require observation of the nurse during the orientation by a direct care registered nurse. This bill would specify that, until the nurse completes orientation, he or she would not be counted as staff in computing the nurse-to-patient ratio.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1276.45 is added to the Health and Safety
2 Code, to read:
3 1276.45. (a) Each general acute care hospital, acute psychiatric
4 hospital, and special hospital, as defined in subdivisions (a), (b),
5 and (f) of Section 1250, shall ensure that all direct care registered
6 nurses, including new hires, casual, per diem, temporary agency,
7 registry, and traveler staff, shall receive and complete orientation
8 to the hospital and patient care unit or clinical care area in which
9 they will be working.
10 (b) (1) Every direct care registered nurse shall have current
11 demonstrated and validated competency required for the specific
12 individual needs of the patient population admitted to the unit or
13 clinical area before being assigned to patient care. In accordance
14 with paragraph (2), current competency may only be demonstrated
15 and validated by the direct observation of the orientee by another
16 direct care registered nurse who has previously demonstrated
17 current competency in the relevant patient population.
18 Self-assessments are prohibited.
19 (2) The observing direct care registered nurse shall be required
20 to directly observe and assess the orientee within the relevant
21 clinical area and with the relevant patient population for a minimum
22 of five standard nursing shifts in order to determine if the orientee
23 displays the required knowledge, performance, and skills of patient
24 assessment, patient care planning, intervention, patient evaluation,
25 and patient advocacy to satisfactorily fulfill the duties required by
26 the Nursing Practice Act (Chapter 6 (commencing with Section
27 2700) of Division 2 of the Business and Professions Code) and
28 the Standards of Competent Performance.
29 (c) An orientee shall not count as staff for the purposes of
30 calculating the nurse-to-patient ratio required by Section 1276.4.
31 (d) As used in this section, “orientee” means a direct care
32 registered nurse who has not received and completed orientation
33 to the hospital and patient care unit or clinical area and whose
34 current competency has not been demonstrated and validated.

1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
April 8, 2008
BILL ANALYSIS**

AUTHOR:	Committee on Business, Professions and Economic Development	BILL NUMBER:	SB 1779
SPONSOR:	Ridley-Thomas (Chair)	BILL STATUS:	Senate
SUBJECT:	Healing arts (Omnibus Bill)	DATE LAST AMENDED:	Introduced 03/13/08

SUMMARY:

Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurses by the Board of Registered Nursing in the Department of Consumer Affairs. Existing law authorizes a registered nurse whose license is revoked or suspended, or who is placed on probation, to petition for reinstatement of his or her license or modification of the penalty after a specified time period.

ANALYSIS

This bill would require a petition by a registered nurse whose initial license application is subject to a disciplinary decision to be filed after a specified time period from the date upon which his or her initial license was issued.

Business and Professions Code 2760.1(a) would be amended as follows:

A registered nurse whose license has been revoked or suspended or who has been placed on probation may petition the board for reinstatement or modification of penalty, including reduction or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action, or if the order of the board or any portion of it is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety, **or for a registered nurse whose initial license application is subject to a disciplinary decision, from the date the initial license was issued:**

- (1) Except as otherwise provided in this section, at least three years for reinstatement of a license that was revoked, except that the board may, in its sole discretion, specify in its order a lesser period of time provided that the period shall be not less than one year.
- (2) At least two years for early termination of a probation period of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Introduced by Committee on Business, Professions and Economic Development (Senators Ridley-Thomas (Chair), Aanestad, Calderon, Corbett, Denham, Florez, Harman, Simitian, and Yee)

March 13, 2008

An act to amend Sections 683, 733, 800, 2089.5, 2096, 2102, 2107, 2175, 2307, 2335, 2486, 2488, 2570.5, 2760.1, 3625, 3633.1, 3635, 3636, 3685, 3750.5, 3753.5, 3773, 4022.5, 4027, 4040, 4051, 4059.5, 4060, 4062, 4076, 4081, 4110, 4111, 4126.5, 4174, 4231, 4301, 4305, 4329, and 4330 of, to amend and renumber Section 2570.185 of, to add Sections 2570.35, 2570.36, 4036.5, and 4990.09 to, and to repeal Sections 2172, 2173, and 2174 of, the Business and Professions Code, to amend Section 8659 of the Government Code, and to amend Sections 11150 and 11165 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1779, as introduced, Committee on Business, Professions and Economic Development. Healing arts.

(1) Existing law requires specified licensure boards to report to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive, or otherwise restricted, and requires specified licensure boards to create and maintain a central file of the names of all persons who hold a license from the board, and to prescribe and promulgate written complaint forms, as specified.

This bill would also subject the California Board of Occupational Therapy to these requirements, and would subject the Acupuncture Board to the requirement to create and maintain a central file of the

names of its licensees and to prescribe and promulgate written complaint forms, as specified.

(2) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California, in the Department of Consumer Affairs. The act requires each applicant for a physician and surgeon's license to meet specified training and examinations requirements, authorizes the appointment of examination commissioners, requires that examinations be conducted in English, except as specified, allows the examinations to be conducted in specified locations, requires notice of examinations to contain certain information, and requires examination records to be kept on file for a period of 2 years or more. The act authorizes a person whose certificate has been surrendered, revoked, suspended, or placed on probation, as specified, to petition for reinstatement of the certificate or modification of the penalty if specified requirements are met.

This bill would specify that certain training required for a physician and surgeon's license must be approved by, or in programs approved by, the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada, and would delete the requirement of passage of a clinical competency examination that is applicable to certain applicants. The bill would delete the provisions related to the appointment of examination commissioners, examinations being conducted in English and examination interpreters, the location of examinations, and examination notices. The bill would also delete the requirement that the board keep examination records on file for at least 2 years, and would instead require the board to keep state examination records on file until June 2069. The bill would revise the requirements for a petition for reinstatement or modification, as specified.

Existing law provides for the licensure and regulation of podiatrists by the Board of Podiatric Medicine in the Medical Board of California. Existing law authorizes the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 90 calendar days. Existing law requires an applicant for a certificate to practice podiatric medicine to meet specified application procedures.

This bill would instead authorize the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 100 calendar days. The

bill would revise the application procedures for a certificate to practice podiatric medicine, as specified.

(3) Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists by the California Board of Occupational Therapy. Existing law requires an occupational therapist to document his or her evaluation, goals, treatment plan, and summary of treatment in a patient record. Existing law authorizes a limited permit to practice occupational therapy to be granted if specified education and examination requirements are met, but provides that if the person fails to qualify for or pass the first announced licensure examination, all limited permit privileges automatically cease upon due notice.

This bill would require an occupational therapy assistant to document in a patient record the services provided to the patient, and would require an occupational therapist or assistant to document and sign a patient record legibly. The bill would revise the provisions related to limited permit privileges to instead provide that a person's failure to pass the licensure examination during the initial eligibility period would cause the privileges to automatically cease upon due notice. The bill would require an employer of an occupational therapy practitioner to report to the board the suspension or termination for cause of any practitioner in its employ, or be subject to a specified administrative fine, and would require a licensee to report to the board violations of the Occupational Therapy Practice Act by licensees or applicants for licensure and to cooperate with the board, as specified.

(4) Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurses by the Board of Registered Nursing in the Department of Consumer Affairs. Existing law authorizes a registered nurse whose license is revoked or suspended, or who is placed on probation, to petition for reinstatement of his or her license or modification of the penalty after a specified time period.

This bill would require a petition by a registered nurse whose initial license application is subject to a disciplinary decision to be filed after a specified time period from the date upon which his or her initial license was issued.

(5) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Bureau of Naturopathic Medicine in the Department of Consumer Affairs. Existing law authorizes the bureau to grant a license to a person meeting certain requirements who has graduated from training prior to 1986 if the

application is received prior to 2008, and requires licensees to obtain continuing education through specified continuing education courses. Existing law requires a licensee on inactive status to meet certain requirements in order to restore his or her license to active status, including paying a reactivation fee.

This bill would require an application for licensure by a person who graduated from training prior to 1986 to be received by the bureau prior to 2011, and would revise the standards for continuing education courses. The bill would delete the requirement that a licensee on inactive status pay a reactivation fee in order to restore his or her license to active status, and would instead require him or her to be current with all licensing fees.

Existing law authorizes the Director of Consumer Affairs to establish an advisory council related to naturopathic doctors composed of members who receive no compensation, travel allowances, or reimbursement of expenses.

This bill would delete the requirement that the members of the advisory council receive no compensation, travel allowances, or reimbursement of expenses.

(6) Existing law provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. Existing law authorizes the board to deny, suspend, or revoke a license to practice respiratory therapy if the licensee obtains or possesses in violation of the law, except as directed by a licensed physician and surgeon, dentist, or podiatrist, or furnishes or administers or uses a controlled substance or dangerous drug, as defined. Existing law authorizes the board to direct a practitioner or applicant who is found to have violated the law to pay the costs of investigation and prosecution. Existing law requires an applicant for renewal of a respiratory care practitioner license to notify the board of specified information.

This bill would revise the board's authority to deny, suspend, or revoke a license to practice respiratory therapy for obtaining, possessing, using, administering, or furnishing controlled substances or dangerous drugs, and would also authorize the board to deny, suspend, or revoke a license if a licensee uses any controlled substance, dangerous drug, or alcoholic beverage to an extent or manner dangerous or injurious to himself or herself, the public, or another person, or to the extent that it impairs his or her ability to practice safely. The bill would also authorize the board to direct a practitioner or applicant who is found to have

violated a term or condition of board probation to pay the costs for investigation and prosecution. The bill would require an applicant for renewal of a respiratory care practitioner license to cooperate in furnishing additional information to the board, as requested, and would provide that, if a licensee fails to furnish the information within 30 days of a request, his or her license would become inactive until the information is received.

Existing law exempts certain healing arts practitioners from liability for specified services rendered during a state of war, state of emergency, or local emergency.

This bill would also exempt respiratory care practitioners from liability for the provision of specified services rendered during a state of war, state of emergency, or local emergency.

(7) Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy in the Department of Consumer Affairs.

Existing law authorizes a pharmacy to furnish dangerous drugs only to specified persons or entities, and subjects certain pharmacies and persons who violate the provision to specified fines.

This bill would provide that any violation of this provision by any person or entity would subject the person to the fine.

Existing law requires a pharmacy or pharmacist who is in charge of or manages a pharmacy to notify the board within 30 days of termination of employment of the pharmacist-in-charge or acting as manager, and provides that a violation of this provision is grounds for disciplinary action.

This bill would instead provide that failure by a pharmacist-in-charge or a pharmacy to notify the board in writing that the pharmacist-in-charge has ceased to act as pharmacist-in-charge within 30 days constitutes grounds for disciplinary action, and would also provide that the operation of the pharmacy for more than 30 days without the supervision or management by a pharmacist-in-charge constitutes grounds for disciplinary action. The bill would revise the definition of a designated representative or designated representative-in-charge, and would define a pharmacist-in-charge.

Existing law makes a nonpharmacist owner of a pharmacy who commits acts that would subvert or tend to subvert the efforts of a pharmacist-in-charge to comply with the Pharmacy Law guilty of a misdemeanor.

This bill would apply this provision to any pharmacy owner.

The bill would require the board, during a declared federal, state, or local emergency, to allow for the employment of a mobile pharmacy in impacted areas under specified conditions, and would authorize the board to allow the temporary use of a mobile pharmacy when a pharmacy is destroyed or damaged under specified conditions. The bill would authorize the board, if a pharmacy fails to provide documentation substantiating continuing education requirements as part of a board investigation or audit, to cancel an active pharmacy license and issue an inactive pharmacy license, and would allow a pharmacy to reobtain an active pharmacy license if it meets specified requirements.

Because this bill would impose new requirements and prohibitions under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

Existing law requires pharmacies to provide information regarding certain controlled substances prescriptions to the Department of Justice on a weekly basis.

This bill would also require a clinic to provide this information to the Department of Justice on a weekly basis.

(8) Existing law provides for the licensure and regulation of psychologists, social workers, and marriage and family therapists by the Board of Behavioral Sciences. Existing law generally provides for a system of citations and fines that are applicable to healing arts licensees.

This bill would prohibit the board from publishing on the Internet final determinations of a citation and fine of \$1,500 or less for more than 5 years from the date of issuance of the citation.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 683 of the Business and Professions Code
2 is amended to read:

683. (a) A board shall report, within 10 working days, to the State Department of Health *Care* Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing his or her profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

(b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, ~~and~~ the State Board of Chiropractic Examiners, ~~and the California Board of Occupational Therapy.~~

SEC. 2. Section 733 of the Business and Professions Code is amended to read:

733. (a) No licentiate shall obstruct a patient in obtaining a prescription drug or device that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.

(b) Notwithstanding any other provision of law, a licentiate shall dispense drugs and devices, as described in subdivision (a) of Section 4024, pursuant to a lawful order or prescription unless one of the following circumstances exists:

(1) Based solely on the licentiate's professional training and judgment, dispensing pursuant to the order or the prescription is contrary to law, or the licentiate determines that the prescribed drug or device would cause a harmful drug interaction or would otherwise adversely affect the patient's medical condition.

(2) The prescription drug or device is not in stock. If an order, other than an order described in Section 4019, or prescription cannot be dispensed because the drug or device is not in stock, the licentiate shall take one of the following actions:

(A) Immediately notify the patient and arrange for the drug or device to be delivered to the site or directly to the patient in a timely manner.

(B) Promptly transfer the prescription to another pharmacy known to stock the prescription drug or device that is near enough

1 to the site from which the prescription or order is transferred, to
2 ensure the patient has timely access to the drug or device.

3 (C) Return the prescription to the patient and refer the patient.
4 The licentiate shall make a reasonable effort to refer the patient to
5 a pharmacy that stocks the prescription drug or device that is near
6 enough to the referring site to ensure that the patient has timely
7 access to the drug or device.

8 (3) The licentiate refuses on ethical, moral, or religious grounds
9 to dispense a drug or device pursuant to an order or prescription.
10 A licentiate may decline to dispense a prescription drug or device
11 on this basis only if the licentiate has previously notified his or
12 her employer, in writing, of the drug or class of drugs to which he
13 or she objects, and the licentiate's employer can, without creating
14 undue hardship, provide a reasonable accommodation of the
15 licentiate's objection. The licentiate's employer shall establish
16 protocols that ensure that the patient has timely access to the
17 prescribed drug or device despite the licentiate's refusal to dispense
18 the prescription or order. For purposes of this section, "reasonable
19 accommodation" and "undue hardship" shall have the same
20 meaning as applied to those terms pursuant to subdivision (l) of
21 Section 12940 of the Government Code.

22 (c) For the purposes of this section, "prescription drug or device"
23 has the same meaning as the definition in Section 4022.

24 (d) The provisions of this section shall apply to the drug therapy
25 described in ~~paragraph (8) of subdivision (a) of Section 4052~~
26 *Section 4052.3*.

27 (e) This section imposes no duty on a licentiate to dispense a
28 drug or device pursuant to a prescription or order without payment
29 for the drug or device, including payment directly by the patient
30 or through a third-party payer accepted by the licentiate or payment
31 of any required copayment by the patient.

32 (f) The notice to consumers required by Section 4122 shall
33 include a statement that describes patients' rights relative to the
34 requirements of this section.

35 SEC. 3. Section 800 of the Business and Professions Code is
36 amended to read:

37 800. (a) The Medical Board of California, the Board of
38 Psychology, the Dental Board of California, the Osteopathic
39 Medical Board of California, the State Board of Chiropractic
40 Examiners, the Board of Registered Nursing, the Board of

1 Vocational Nursing and Psychiatric Technicians, the State Board
2 of Optometry, the Veterinary Medical Board, the Board of
3 Behavioral Sciences, the Physical Therapy Board of California,
4 the California State Board of Pharmacy, ~~and~~ the Speech-Language
5 Pathology and Audiology Board, *the California Board of*
6 *Occupational Therapy, and the Acupuncture Board* shall each
7 separately create and maintain a central file of the names of all
8 persons who hold a license, certificate, or similar authority from
9 that board. Each central file shall be created and maintained to
10 provide an individual historical record for each licensee with
11 respect to the following information:

12 (1) Any conviction of a crime in this or any other state that
13 constitutes unprofessional conduct pursuant to the reporting
14 requirements of Section 803.

15 (2) Any judgment or settlement requiring the licensee or his or
16 her insurer to pay any amount of damages in excess of three
17 thousand dollars (\$3,000) for any claim that injury or death was
18 proximately caused by the licensee's negligence, error or omission
19 in practice, or by rendering unauthorized professional services,
20 pursuant to the reporting requirements of Section 801 or 802.

21 (3) Any public complaints for which provision is made pursuant
22 to subdivision (b).

23 (4) Disciplinary information reported pursuant to Section 805.

24 (b) Each board shall prescribe and promulgate forms on which
25 members of the public and other licensees or certificate holders
26 may file written complaints to the board alleging any act of
27 misconduct in, or connected with, the performance of professional
28 services by the licensee.

29 If a board, or division thereof, a committee, or a panel has failed
30 to act upon a complaint or report within five years, or has found
31 that the complaint or report is without merit, the central file shall
32 be purged of information relating to the complaint or report.

33 Notwithstanding this subdivision, the Board of Psychology, the
34 Board of Behavioral Sciences, and the Respiratory Care Board of
35 California shall maintain complaints or reports as long as each
36 board deems necessary.

37 (c) The contents of any central file that are not public records
38 under any other provision of law shall be confidential except that
39 the licensee involved, or his or her counsel or representative, shall
40 have the right to inspect and have copies made of his or her

1 complete file except for the provision that may disclose the identity
2 of an information source. For the purposes of this section, a board
3 may protect an information source by providing a copy of the
4 material with only those deletions necessary to protect the identity
5 of the source or by providing a comprehensive summary of the
6 substance of the material. Whichever method is used, the board
7 shall ensure that full disclosure is made to the subject of any
8 personal information that could reasonably in any way reflect or
9 convey anything detrimental, disparaging, or threatening to a
10 licensee's reputation, rights, benefits, privileges, or qualifications,
11 or be used by a board to make a determination that would affect
12 a licensee's rights, benefits, privileges, or qualifications. The
13 information required to be disclosed pursuant to Section 803.1
14 shall not be considered among the contents of a central file for the
15 purposes of this subdivision.

16 The licensee may, but is not required to, submit any additional
17 exculpatory or explanatory statement or other information that the
18 board shall include in the central file.

19 Each board may permit any law enforcement or regulatory
20 agency when required for an investigation of unlawful activity or
21 for licensing, certification, or regulatory purposes to inspect and
22 have copies made of that licensee's file, unless the disclosure is
23 otherwise prohibited by law.

24 These disclosures shall effect no change in the confidential status
25 of these records.

26 SEC. 4. Section 2089.5 of the Business and Professions Code
27 is amended to read:

28 2089.5. (a) Clinical instruction in the subjects listed in
29 subdivision (b) of Section 2089 shall meet the requirements of this
30 section and shall be considered adequate if the requirements of
31 subdivision (a) of Section 2089 and the requirements of this section
32 are satisfied.

33 (b) Instruction in the clinical courses shall total a minimum of
34 72 weeks in length.

35 (c) Instruction in the core clinical courses of surgery, medicine,
36 family medicine, pediatrics, obstetrics and gynecology, and
37 psychiatry shall total a minimum of 40 weeks in length with a
38 minimum of eight weeks instruction in surgery, eight weeks in
39 medicine, six weeks in pediatrics, six weeks in obstetrics and

1 gynecology, a minimum of four weeks in family medicine, and
2 four weeks in psychiatry.

3 (d) Of the instruction required by subdivision (b), including all
4 of the instruction required by subdivision (c), 54 weeks shall be
5 performed in a hospital that sponsors the instruction and shall meet
6 one of the following:

7 (1) Is a formal part of the medical school or school of
8 osteopathic medicine.

9 (2) Has ~~an approved~~ a residency program, *approved by the*
10 *Accreditation Council for Graduate Medical Education (ACGME)*
11 *or the Royal College of Physicians and Surgeons of Canada*
12 *(RCPSC)*, in family practice or in the clinical area of the instruction
13 for which credit is being sought.

14 (3) Is formally affiliated with an approved medical school or
15 school of osteopathic medicine located in the United States or
16 Canada. If the affiliation is limited in nature, credit shall be given
17 only in the subject areas covered by the affiliation agreement.

18 (4) Is formally affiliated with a medical school or a school of
19 osteopathic medicine located outside the United States or Canada.

20 (e) If the institution, specified in subdivision (d), is formally
21 affiliated with a medical school or a school of osteopathic medicine
22 located outside the United States or Canada, it shall meet the
23 following:

24 (1) The formal affiliation shall be documented by a written
25 contract detailing the relationship between the medical school, or
26 a school of osteopathic medicine, and hospital and the
27 responsibilities of each.

28 (2) The school and hospital shall provide to the ~~division~~ *board*
29 a description of the clinical program. The description shall be in
30 sufficient detail to enable the ~~division~~ *board* to determine whether
31 or not the program provides students an adequate medical
32 education. The ~~division~~ *board* shall approve the program if it
33 determines that the program provides an adequate medical
34 education. If the ~~division~~ *board* does not approve the program, it
35 shall provide its reasons for disapproval to the school and hospital
36 in writing specifying its findings about each aspect of the program
37 that it considers to be deficient and the changes required to obtain
38 approval.

39 (3) The hospital, if located in the United States, shall be
40 accredited by the Joint Commission on Accreditation of Hospitals,

1 and if located in another country, shall be accredited in accordance
2 with the law of that country.

3 (4) The clinical instruction shall be supervised by a full-time
4 director of medical education, and the head of the department for
5 each core clinical course shall hold a full-time faculty appointment
6 of the medical school or school of osteopathic medicine and shall
7 be board certified or eligible, or have an equivalent credential in
8 that specialty area appropriate to the country in which the hospital
9 is located.

10 (5) The clinical instruction shall be conducted pursuant to a
11 written program of instruction provided by the school.

12 (6) The school shall supervise the implementation of the
13 program on a regular basis, documenting the level and extent of
14 its supervision.

15 (7) The hospital-based faculty shall evaluate each student on a
16 regular basis and shall document the completion of each aspect of
17 the program for each student.

18 (8) The hospital shall ensure a minimum daily census adequate
19 to meet the instructional needs of the number of students enrolled
20 in each course area of clinical instruction, but not less than 15
21 patients in each course area of clinical instruction.

22 (9) The ~~division~~ *board*, in reviewing the application of a foreign
23 medical graduate, may require the applicant to submit a description
24 of the clinical program, if the ~~division~~ *board* has not previously
25 approved the program, and may require the applicant to submit
26 documentation to demonstrate that the applicant's clinical training
27 met the requirements of this subdivision.

28 (10) The medical school or school of osteopathic medicine shall
29 bear the reasonable cost of any site inspection by the ~~division~~ *board*
30 or its agents necessary to determine whether the clinical program
31 offered is in compliance with this subdivision.

32 SEC. 5. Section 2096 of the Business and Professions Code is
33 amended to read:

34 2096. In addition to other requirements of this chapter, before
35 a ~~physician's~~ *physician* and surgeon's license may be issued, each
36 applicant, including an applicant applying pursuant to Article 5
37 (commencing with Section 2100), shall show by evidence
38 satisfactory to the ~~Division of Licensing~~ *board* that he or she has
39 satisfactorily completed at least one year of postgraduate training,
40 which includes at least four months of general medicine, in ~~an~~

1 approved a postgraduate training program approved by the
2 Accreditation Council for Graduate Medical Education (ACGME)
3 or Royal College of Physicians and Surgeons of Canada (RCPSC).

4 The amendments made to this section at the 1987 portion of the
5 1987–88 session of the Legislature shall not apply to applicants
6 who completed their one year of postgraduate training on or before
7 July 1, 1990.

8 SEC. 6. Section 2102 of the Business and Professions Code is
9 amended to read:

10 2102. Any applicant whose professional instruction was
11 acquired in a country other than the United States or Canada shall
12 provide evidence satisfactory to the ~~division~~ board of compliance
13 with the following requirements to be issued a ~~physician's~~
14 *physician* and surgeon's certificate:

15 (a) Completion in a medical school or schools of a resident
16 course of professional instruction equivalent to that required by
17 Section 2089 and issuance to the applicant of a document
18 acceptable to the ~~division~~ board that shows final and successful
19 completion of the course. However, nothing in this section shall
20 be construed to require the ~~division~~ board to evaluate for
21 equivalency any coursework obtained at a medical school
22 disapproved by the ~~division~~ board pursuant to this section.

23 (b) Certification by the Educational Commission for Foreign
24 Medical Graduates, or its equivalent, as determined by the ~~division~~
25 board. This subdivision shall apply to all applicants who are subject
26 to this section and who have not taken and passed the written
27 examination specified in subdivision (d) prior to June 1, 1986.

28 (c) Satisfactory completion of the postgraduate training required
29 under Section 2096. An applicant shall be required to have
30 substantially completed the professional instruction required in
31 subdivision (a) and shall be required to make application to the
32 ~~division~~ board and have passed steps 1 and 2 of the written
33 examination relating to biomedical and clinical sciences prior to
34 commencing any postgraduate training in this state. In its
35 discretion, the ~~division~~ board may authorize an applicant who is
36 deficient in any education or clinical instruction required by
37 Sections 2089 and 2089.5 to make up any deficiencies as a part of
38 his or her postgraduate training program, but that remedial training
39 shall be in addition to the postgraduate training required for
40 licensure.

(d) Pass the written examination as provided under Article 9 (commencing with Section 2170). ~~If an applicant has not satisfactorily completed at least two years of approved postgraduate training, the applicant shall also pass the clinical competency written examination.~~ An applicant shall be required to meet the requirements specified in subdivision (b) prior to being admitted to the written examination required by this subdivision.

Nothing in this section prohibits the ~~division~~ *board* from disapproving any foreign medical school or from denying an application if, in the opinion of the ~~division~~ *board*, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

SEC. 7. Section 2107 of the Business and Professions Code is amended to read:

2107. (a) The Legislature intends that the ~~Division of Licensing~~ *board* shall have the authority to substitute postgraduate education and training to remedy deficiencies in an applicant's medical school education and training. The Legislature further intends that applicants who substantially completed their clinical training shall be granted that substitute credit if their postgraduate education took place in an accredited program.

(b) To meet the requirements for licensure set forth in Sections 2089 and 2089.5, the ~~Division of Licensing~~ *board* may require an applicant under this article to successfully complete additional education and training. In determining the content and duration of the required additional education and training, the ~~division~~ *board* shall consider the applicant's medical education and performance on standardized national examinations, and may substitute approved postgraduate training in lieu of specified undergraduate requirements. Postgraduate training substituted for undergraduate training shall be in addition to the ~~year of~~ postgraduate training required by Sections 2102 and 2103.

SEC. 8. Section 2172 of the Business and Professions Code is repealed.

~~2172. The Division of Licensing may appoint qualified persons to give the whole or any portion of any examination as provided in this chapter, who shall be designated as examination commissioners. The board may fix the compensation of such~~

1 ~~persons subject to the provisions of applicable state laws and~~
2 ~~regulations.~~

3 SEC. 9. Section 2173 of the Business and Professions Code is
4 repealed.

5 ~~2173. The examination shall be conducted in the English~~
6 ~~language. Upon the submission of satisfactory proof from the~~
7 ~~applicant that he or she is unable to meet the requirements of the~~
8 ~~examination in English, the Division of Licensing may allow the~~
9 ~~use of an interpreter, either to be present in the examination room~~
10 ~~or thereafter to interpret and transcribe the answers of the applicant.~~
11 ~~The division in its discretion may select an examinee's interpreter~~
12 ~~or approve the selection of an interpreter by the examinee. The~~
13 ~~expenses of the interpreter shall be paid by the examinee and shall~~
14 ~~be paid before the examination is administered.~~

15 SEC. 10. Section 2174 of the Business and Professions Code
16 is repealed.

17 ~~2174. The examinations may be conducted in any part of the~~
18 ~~state or another state designated by the Division of Licensing. A~~
19 ~~notice of each examination administered by the division shall~~
20 ~~specify the time and place of the examination.~~

21 SEC. 11. Section 2175 of the Business and Professions Code
22 is amended to read:

23 ~~2175. Examination~~ *State examination* records shall be kept on
24 file by the Division of Licensing for a period of two years or more
25 ~~board until June 1, 2069.~~ Examinees shall be known and designated
26 by number only, and the name attached to the number shall be kept
27 secret until the examinee is sent notification of the results of the
28 examinations.

29 SEC. 12. Section 2307 of the Business and Professions Code
30 is amended to read:

31 2307. (a) A person whose certificate has been surrendered
32 while under investigation or while charges are pending or whose
33 certificate has been revoked or suspended or placed on probation,
34 may petition the ~~Division of Medical Quality board~~ for
35 reinstatement or modification of penalty, including modification
36 or termination of probation.

37 (b) The person may file the petition after a period of not less
38 than the following minimum periods have elapsed from the
39 effective date of the surrender of the certificate or the decision
40 ordering that disciplinary action:

1 (1) At least three years for reinstatement of a license surrendered
2 or revoked for unprofessional conduct, except that the ~~division~~
3 *board* may, for good cause shown, specify in a revocation order
4 that a petition for reinstatement may be filed after two years.

5 (2) At least two years for early termination of probation of three
6 years or more.

7 (3) At least one year for modification of a condition, or
8 reinstatement of a license surrendered or revoked for mental or
9 physical illness, or termination of probation of less than three years.

10 (c) The petition shall state any facts as may be required by the
11 ~~division board~~. The petition shall be accompanied by at least two
12 verified recommendations from physicians and surgeons licensed
13 ~~by the board in any state~~ who have personal knowledge of the
14 activities of the petitioner since the disciplinary penalty was
15 imposed.

16 (d) The petition may be heard by a panel of the ~~division board~~.
17 The ~~division board~~ may assign the petition to an administrative
18 law judge designated in Section 11371 of the Government Code.
19 After a hearing on the petition, the administrative law judge shall
20 provide a proposed decision to the ~~division board~~ or the California
21 Board of Podiatric Medicine, as applicable, which shall be acted
22 upon in accordance with Section 2335.

23 (e) The panel of the ~~division board~~ or the administrative law
24 judge hearing the petition may consider all activities of the
25 petitioner since the disciplinary action was taken, the offense for
26 which the petitioner was disciplined, the petitioner's activities
27 during the time the certificate was in good standing, and the
28 petitioner's rehabilitative efforts, general reputation for truth, and
29 professional ability. The hearing may be continued from time to
30 time as the administrative law judge designated in Section 11371
31 of the Government Code finds necessary.

32 (f) The administrative law judge designated in Section 11371
33 of the Government Code reinstating a certificate or modifying a
34 penalty may recommend the imposition of any terms and conditions
35 deemed necessary.

36 (g) No petition shall be considered while the petitioner is under
37 sentence for any criminal offense, including any period during
38 which the petitioner is on court-imposed probation or parole. No
39 petition shall be considered while there is an accusation or petition
40 to revoke probation pending against the person. The ~~division board~~

1 may deny without a hearing or argument any petition filed pursuant
2 to this section within a period of two years from the effective date
3 of the prior decision following a hearing under this section.

4 (h) This section is applicable to and may be carried out with
5 regard to licensees of the California Board of Podiatric Medicine.
6 In lieu of two verified recommendations from physicians and
7 surgeons, the petition shall be accompanied by at least two verified
8 recommendations from podiatrists licensed ~~by the board~~ *in any*
9 *state* who have personal knowledge of the activities of the
10 petitioner since the date the disciplinary penalty was imposed.

11 (i) Nothing in this section shall be deemed to alter Sections 822
12 and 823 ~~of the Business and Professions Code~~.

13 SEC. 13. Section 2335 of the Business and Professions Code
14 is amended to read:

15 2335. (a) All proposed decisions and interim orders of the
16 Medical Quality Hearing Panel designated in Section 11371 of the
17 Government Code shall be transmitted to the executive director
18 of the board, or the executive director of the California Board of
19 Podiatric Medicine as to the licensees of that board, within 48
20 hours of filing.

21 (b) All interim orders shall be final when filed.

22 (c) A proposed decision shall be acted upon by the board or by
23 any panel appointed pursuant to Section 2008 or by the California
24 Board of Podiatric Medicine, as the case may be, in accordance
25 with Section 11517 of the Government Code, except that all of the
26 following shall apply to proceedings against licensees under this
27 chapter:

28 (1) When considering a proposed decision, the board or panel
29 and the California Board of Podiatric Medicine shall give great
30 weight to the findings of fact of the administrative law judge,
31 except to the extent those findings of fact are controverted by new
32 evidence.

33 (2) The board's staff or the staff of the California Board of
34 Podiatric Medicine shall poll the members of the board or panel
35 or of the California Board of Podiatric Medicine by written mail
36 ballot concerning the proposed decision. The mail ballot shall be
37 sent within 10 calendar days of receipt of the proposed decision,
38 and shall poll each member on whether the member votes to
39 approve the decision, to approve the decision with an altered
40 penalty, to refer the case back to the administrative law judge for

1 the taking of additional evidence, to defer final decision pending
2 discussion of the case by the panel or board as a whole, or to
3 nonadopt the decision. No party to the proceeding, including
4 employees of the agency that filed the accusation, and no person
5 who has a direct or indirect interest in the outcome of the
6 proceeding or who presided at a previous stage of the decision,
7 may communicate directly or indirectly, upon the merits of a
8 contested matter while the proceeding is pending, with any member
9 of the panel or board, without notice and opportunity for all parties
10 to participate in the communication. The votes of a majority of the
11 board or of the panel, and a majority of the California Board of
12 Podiatric Medicine, are required to approve the decision with an
13 altered penalty, to refer the case back to the administrative law
14 judge for the taking of further evidence, or to nonadopt the
15 decision. The votes of two members of the panel or board are
16 required to defer final decision pending discussion of the case by
17 the panel or board as a whole. If there is a vote by the specified
18 number to defer final decision pending discussion of the case by
19 the panel or board as a whole, provision shall be made for that
20 discussion before the ~~90-day~~ 100-day period specified in paragraph
21 (3) expires, but in no event shall that ~~90-day~~ 100-day period be
22 extended.

23 (3) If a majority of the board or of the panel, or a majority of
24 the California Board of Podiatric Medicine vote to do so, the board
25 or the panel or the California Board of Podiatric Medicine shall
26 issue an order of nonadoption of a proposed decision within ~~90~~
27 100 calendar days of the date it is received by the board. If the
28 board or the panel or the California Board of Podiatric Medicine
29 does not refer the case back to the administrative law judge for the
30 taking of additional evidence or issue an order of nonadoption
31 within ~~90~~ 100 days, the decision shall be final and subject to review
32 under Section 2337. Members of the board or of any panel or of
33 the California Board of Podiatric Medicine who review a proposed
34 decision or other matter and vote by mail as provided in paragraph
35 (2) shall return their votes by mail to the board within 30 days
36 from receipt of the proposed decision or other matter.

37 (4) The board or the panel or the California Board of Podiatric
38 Medicine shall afford the parties the opportunity to present oral
39 argument before deciding a case after nonadoption of the
40 administrative law judge's decision.

(5) A vote of a majority of the board or of a panel, or a majority of the California Board of Podiatric Medicine, are required to increase the penalty from that contained in the proposed administrative law judge's decision. No member of the board or panel or of the California Board of Podiatric Medicine may vote to increase the penalty except after reading the entire record and personally hearing any additional oral argument and evidence presented to the panel or board.

SEC. 14. Section 2486 of the Business and Professions Code is amended to read:

2486. The ~~division~~ *Medical board of California* shall issue, upon the recommendation of the board, a certificate to practice podiatric medicine if the applicant *has submitted directly to the board from the credentialing organizations verification that he or she* meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine and meets the requirements of Section 2483.

(b) The applicant, within the past 10 years, has passed parts I, II, and III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or has passed a written examination that is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(d) The applicant has passed within the past 10 years any oral and practical examination that may be required of all applicants by the board to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

1 (g) A disciplinary databank report regarding the applicant ~~has~~
2 ~~been directly presented to the board~~ *is received by the board* from
3 the Federation of Podiatric Medical Boards.

4 SEC. 15. Section 2488 of the Business and Professions Code
5 is amended to read:

6 2488. Notwithstanding any other provision of law, the ~~division~~
7 *board* shall issue, upon the recommendation of the board, a
8 certificate to practice podiatric medicine by credentialing if the
9 applicant *has submitted directly to the board from the credentialing*
10 *organizations verification that he or she* is licensed as a doctor of
11 podiatric medicine in any other state and meets all of the following
12 requirements:

13 (a) The applicant has graduated from an approved school or
14 college of podiatric medicine.

15 (b) The applicant, within the past 10 years, has passed either
16 part III of the examination administered by the National Board of
17 Podiatric Medical Examiners of the United States or a written
18 examination that is recognized by the board to be the equivalent
19 in content to the examination administered by the National Board
20 of Podiatric Medical Examiners of the United States.

21 (c) The applicant has satisfactorily completed a postgraduate
22 training program approved by the Council on Podiatric Medical
23 Education.

24 (d) The applicant, within the past 10 years, has passed any oral
25 and practical examination that may be required of all applicants
26 by the board to ascertain clinical competence.

27 (e) The applicant has committed no acts or crimes constituting
28 grounds for denial of a certificate under Division 1.5 (commencing
29 with Section 475).

30 (f) The board determines that no disciplinary action has been
31 taken against the applicant by any podiatric licensing authority
32 and that the applicant has not been the subject of adverse judgments
33 or settlements resulting from the practice of podiatric medicine
34 that the board determines constitutes evidence of a pattern of
35 negligence or incompetence.

36 (g) A disciplinary data bank report regarding the applicant ~~has~~
37 ~~been submitted to the board directly~~ from the Federation of
38 Podiatric Medical Boards.

39 SEC. 16. Section 2570.5 of the Business and Professions Code
40 is amended to read:

1 2570.5. (a) A limited permit may be granted to any person
2 who has completed the education and experience requirements of
3 this chapter.

4 (b) A person who meets the qualifications to be admitted to the
5 examination for licensure or certification under this chapter and
6 is waiting to take the ~~first available~~ examination or awaiting the
7 announcement of the results of the examination, according to the
8 application requirements for a limited permit, may practice as an
9 occupational therapist or as an occupational therapy assistant under
10 the direction and appropriate supervision of an occupational
11 therapist duly licensed under this chapter. If that person fails to
12 ~~qualify for or pass the first announced~~ examination *during the*
13 *initial eligibility period*, all privileges under this section shall
14 automatically cease upon due notice to the applicant of that failure
15 and may not be renewed.

16 (c) A limited permit shall be subject to other requirements set
17 forth in rules adopted by the board.

18 SEC. 17. Section 2570.185 of the Business and Professions
19 Code is amended and renumbered to read:

20 ~~2570.185.~~

21 2570.18.5. An occupational therapist shall document his or her
22 evaluation, goals, treatment plan, and summary of treatment in the
23 patient record. Patient records shall be maintained for a period of
24 no less than seven years following the discharge of the patient,
25 except that the records of unemancipated minors shall be
26 maintained at least one year after the minor has reached the age
27 of 18 years, and not in any case less than seven years.

28 SEC. 18. Section 2570.35 is added to the Business and
29 Professions Code, to read:

30 2570.35. (a) An employer of an occupational therapy
31 practitioner shall report to the board the suspension or termination
32 for cause of any practitioner in its employ. Reporting pursuant to
33 this section shall not act as a waiver of confidentiality of medical
34 records and the information reported or disclosed pursuant to this
35 section shall be kept confidential, except as provided in subdivision
36 (c) of Section 800, and shall not be subject to discovery in a civil
37 case.

38 (b) For purposes of this section, “suspension or termination for
39 cause” means suspension or termination from employment for any
40 of the following reasons:

1 (1) Use of controlled substances or alcohol to such an extent
2 that it impaired the ability of the employee to safely practice
3 occupational therapy.

4 (2) Unlawful sale of controlled substances or other prescription
5 items.

6 (3) Patient neglect, physical harm to a patient, or sexual contact
7 with a patient.

8 (4) Falsification of medical records.

9 (5) Gross incompetence or negligence.

10 (6) Theft from patients, other employees, or the employer.

11 (c) Failure of an employer to make a report required by this
12 section is punishable by an administrative fine not to exceed five
13 thousand dollars (\$5,000) per violation.

14 SEC. 19. Section 2570.36 is added to the Business and
15 Professions Code, to read:

16 2570.36. If a licensee has knowledge that an applicant or
17 licensee may be in violation of, or has violated, any of the statutes
18 or regulations administered by the board, the licensee shall report
19 this information to the board in writing and shall cooperate with
20 the board in providing information or assistance as may be
21 required.

22 SEC. 20. Section 2760.1 of the Business and Professions Code
23 is amended to read:

24 2760.1. (a) A registered nurse whose license has been revoked;
25 or suspended or who has been placed on probation may petition
26 the board for reinstatement or modification of penalty, including
27 reduction or termination of probation, after a period not less than
28 the following minimum periods has elapsed from the effective
29 date of the decision ordering that disciplinary action, or if the order
30 of the board or any portion of it is stayed by the board itself or by
31 the superior court, from the date the disciplinary action is actually
32 implemented in its entirety, *or for a registered nurse whose initial*
33 *license application is subject to a disciplinary decision, from the*
34 *date the initial license was issued:*

35 (1) Except as otherwise provided in this section, at least three
36 years for reinstatement of a license that was revoked, except that
37 the board may, in its sole discretion, specify in its order a lesser
38 period of time provided that the period shall be not less than one
39 year.

1 (2) At least two years for early termination of a probation period
2 of three years or more.

3 (3) At least one year for modification of a condition, or
4 reinstatement of a license revoked for mental or physical illness,
5 or termination of probation of less than three years.

6 (b) The board shall give notice to the Attorney General of the
7 filing of the petition. The petitioner and the Attorney General shall
8 be given timely notice by letter of the time and place of the hearing
9 on the petition, and an opportunity to present both oral and
10 documentary evidence and argument to the board. The petitioner
11 shall at all times have the burden of proof to establish by clear and
12 convincing evidence that he or she is entitled to the relief sought
13 in the petition.

14 (c) The hearing may be continued from time to time as the board
15 deems appropriate.

16 (d) The board itself shall hear the petition and the administrative
17 law judge shall prepare a written decision setting forth the reasons
18 supporting the decision.

19 (e) The board may grant or deny the petition, or may impose
20 any terms and conditions that it reasonably deems appropriate as
21 a condition of reinstatement or reduction of penalty.

22 (f) The petitioner shall provide a current set of fingerprints
23 accompanied by the necessary fingerprinting fee.

24 (g) No petition shall be considered while the petitioner is under
25 sentence for any criminal offense, including any period during
26 which the petitioner is on court-imposed probation or parole, or
27 subject to an order of registration pursuant to Section 290 of the
28 Penal Code. No petition shall be considered while there is an
29 accusation or petition to revoke probation pending against the
30 petitioner.

31 (h) Except in those cases where the petitioner has been
32 ~~disciplined for violation of~~ *pursuant to* Section 822, the board may
33 in its discretion deny without hearing or argument any petition
34 that is filed pursuant to this section within a period of two years
35 from the effective date of a prior decision following a hearing
36 under this section.

37 SEC. 21. Section 3625 of the Business and Professions Code
38 is amended to read:

39 3625. (a) The Director of Consumer Affairs shall establish an
40 advisory council consisting of nine members. Members of the

1 advisory council shall include three members who are California
2 licensed naturopathic doctors, or have met the requirements for
3 licensure pursuant to this chapter, three members who are
4 California licensed physicians and surgeons, and three public
5 members.

6 (b) A member of the advisory council shall be appointed for a
7 four-year term. A person shall not serve as a member of the council
8 for more than two consecutive terms. A member shall hold office
9 until the appointment and qualification of his or her successor, or
10 until one year from the expiration of the term for which the member
11 was appointed, whichever first occurs. Vacancies shall be filled
12 by appointment for unexpired terms. The first terms of the members
13 first appointed shall be as follows:

14 (1) The Governor shall appoint one physician and surgeon
15 member, one naturopathic doctor member, and one public member,
16 with term expirations of June 1, 2006; one physician and surgeon
17 member with a term expiration date of June 1, 2007; and one
18 naturopathic doctor member with a term expiration date of June
19 1, 2008.

20 (2) The Senate ~~Committee on Rules-Committee~~ shall appoint
21 one physician and surgeon member with a term expiration of June
22 1, 2008, and one public member with a term expiration of June 1,
23 2007.

24 (3) The Speaker of the Assembly shall appoint one naturopathic
25 doctor member with a term expiration of June 1, 2007, and one
26 public member with a term expiration of June 1, 2008.

27 (c) (1) A public member of the advisory council shall be a
28 citizen of this state for at least five years preceding his or her
29 appointment.

30 (2) A person shall not be appointed as a public member if the
31 person or the person's immediate family in any manner owns an
32 interest in a college, school, or institution engaged in naturopathic
33 education, or the person or the person's immediate family has an
34 economic interest in naturopathy or has any other conflict of
35 interest. "Immediate family" means the public member's spouse,
36 parents, children, or his or her children's spouses.

37 (d) In order to operate in as cost-effective a manner as possible,
38 the advisory council and any advisory committee created pursuant
39 to this chapter shall meet as few times as necessary to perform its

1 ~~duties, and its members shall receive no compensation, travel~~
2 ~~allowances, or reimbursement for their expenses.~~

3 SEC. 22. Section 3633.1 of the Business and Professions Code
4 is amended to read:

5 3633.1. The bureau may grant a license to an applicant who
6 meets the requirements of Section 3630, but who graduated prior
7 to 1986, pre-NPLEX, and passed a state or Canadian Province
8 naturopathic licensing examination. Applications under this section
9 shall be received no later than December 31, ~~2007~~ 2010.

10 SEC. 23. Section 3635 of the Business and Professions Code
11 is amended to read:

12 3635. (a) In addition to any other qualifications and
13 requirements for licensure renewal, the bureau shall require the
14 satisfactory completion of 60 hours of approved continuing
15 education biennially. This requirement is waived for the initial
16 license renewal. The continuing education shall meet the following
17 requirements:

18 (1) At least 20 hours shall be in pharmacotherapeutics.

19 (2) No more than 15 hours may be in naturopathic medical
20 journals or osteopathic or allopathic medical journals, or audio or
21 videotaped presentations, slides, programmed instruction, or
22 computer-assisted instruction or preceptorships.

23 (3) No more than 20 hours may be in any single topic.

24 (4) No more than 15 hours of the continuing education
25 requirements for the specialty certificate in naturopathic childbirth
26 attendance shall apply to the 60 hours of continuing education
27 requirement.

28 (b) The continuing education requirements of this section may
29 be met through continuing education courses approved by *the*
30 *bureau*, the California Naturopathic Doctors Association, the
31 American Association of Naturopathic Physicians, ~~the Medical~~
32 ~~Board of California~~, the California State Board of Pharmacy, the
33 State Board of Chiropractic Examiners, or other courses ~~approved~~
34 ~~by the bureau~~ *that meet the standards for continuing education*
35 *for licensed physicians and surgeons in California.*

36 SEC. 24. Section 3636 of the Business and Professions Code
37 is amended to read:

38 3636. (a) Upon a written request, the bureau may grant inactive
39 status to a naturopathic doctor who is in good standing and who
40 meets the requirements of Section 462.

1 (b) A person whose license is in inactive status may not engage
2 in any activity for which a license is required under this chapter.

3 (c) A person whose license is in inactive status shall be exempt
4 from continuing education requirements while his or her license
5 is in that status.

6 (d) To restore a license to active status, a person whose license
7 is in inactive status must fulfill continuing education requirements
8 for the two-year period prior to reactivation, and ~~pay a reactivation~~
9 ~~fee established~~ *be current with all licensing fees as determined by*
10 the bureau.

11 SEC. 25. Section 3685 of the Business and Professions Code
12 is amended to read:

13 ~~3685. (a) The provisions of Article 8 (commencing with~~
14 ~~Section 3680) shall become operative on January 1, 2004, but the~~
15 ~~remaining provisions of this chapter shall become operative on~~
16 ~~July 1, 2004. It is the intent of the Legislature that the initial~~
17 ~~implementation of this chapter be administered by fees collected~~
18 ~~in advance from applicants. Therefore, the bureau shall have the~~
19 ~~power and authority to establish fees and receive applications for~~
20 ~~licensure or intents to file application statements on and after~~
21 ~~January 1, 2004. The department shall certify that sufficient funds~~
22 ~~are available prior to implementing this chapter. Funds from the~~
23 ~~General Fund may not be used for the purpose of implementing~~
24 ~~this chapter.~~

25 ~~(b)~~
26 3685. (a) This chapter shall become inoperative on July 1,
27 2010, and, as of January 1, 2011, is repealed, unless a later enacted
28 statute that is enacted before January 1, 2011, deletes or extends
29 the dates on which it becomes inoperative and is repealed. The
30 repeal of this chapter renders the bureau subject to the review
31 required by Division 1.2 (commencing with Section 473).

32 ~~(e)~~
33 (b) The bureau shall prepare the report required by Section 473.2
34 no later than September 1, 2008.

35 SEC. 26. Section 3750.5 of the Business and Professions Code
36 is amended to read:

37 3750.5. In addition to any other grounds specified in this
38 chapter, the board may deny, suspend, or revoke the license of any
39 applicant or licenseholder who has done any of the following:

1 ~~(a) Obtained or possessed in violation of law, or except as~~
2 ~~directed by a licensed physician and surgeon, dentist, or podiatrist~~
3 ~~administered to himself or herself, or furnished or administered to~~
4 ~~another, any controlled substances as defined in Division 10~~
5 ~~(commencing with Section 11000) of the Health and Safety Code,~~
6 ~~or any dangerous drug as defined in Article 2 (commencing with~~
7 ~~Section 4015) of Chapter 9.~~

8 *(a) Obtained, possessed, used, or administered to himself or*
9 *herself, in violation of law, or furnished or administered to another,*
10 *any controlled substances, as defined in Division 10 (commencing*
11 *with Section 11000) of the Health and Safety Code, or any*
12 *dangerous drug, as defined in Article 2 (commencing with Section*
13 *4015) of Chapter 9, except as directed by a licensed physician and*
14 *surgeon, dentist, podiatrist, or other authorized health care*
15 *provider.*

16 (b) Used any controlled substance as defined in Division 10
17 (commencing with Section 11000) of the Health and Safety Code,
18 ~~or~~ any dangerous drug as defined in Article 2 (commencing with
19 Section 4015) of Chapter 9, *or any alcoholic beverage, to an extent*
20 *or in a manner dangerous or injurious to himself or herself,*
21 *another person, or the public, or to the extent that the use impaired*
22 *his or her ability to conduct with safety to the public the practice*
23 *authorized by his or her license.*

24 (c) Applied for employment or worked in any health care
25 profession or environment while under the influence of alcohol.

26 (d) Been convicted of a criminal offense involving the
27 consumption or self-administration of any of the substances
28 described in ~~subdivisions (a) and (b)~~ *subdivision (a)*, or the
29 possession of, or falsification of a record pertaining to, the
30 substances described in subdivision (a), in which event the record
31 of the conviction is conclusive evidence thereof.

32 (e) Been committed or confined by a court of competent
33 jurisdiction for intemperate use of or addiction to the use of any
34 of the substances described in subdivisions (a), (b), and (c), in
35 which event the court order of commitment or confinement is
36 prima facie evidence of that commitment or confinement.

37 (f) Falsified, or made grossly incorrect, grossly inconsistent, or
38 unintelligible entries in any hospital, patient, or other record
39 pertaining to the substances described in subdivision (a).

1 SEC. 27. Section 3753.5 of the Business and Professions Code
2 is amended to read:

3 3753.5. (a) In any order issued in resolution of a disciplinary
4 proceeding before the board, the board or the administrative law
5 judge may direct any practitioner or applicant found to have
6 committed a violation or violations of law, *or any term and*
7 *condition of board probation*, to pay to the board a sum not to
8 exceed the costs of the investigation and prosecution of the case.
9 A certified copy of the actual costs, or a good faith estimate of
10 costs where actual costs are not available, signed by the official
11 custodian of the record or his or her designated representative shall
12 be prima facie evidence of the actual costs of the investigation and
13 prosecution of the case.

14 (b) The costs shall be assessed by the administrative law judge
15 and shall not be increased by the board; however, the costs may
16 be imposed or increased by the board if it does not adopt the
17 proposed decision of the case.

18 Where an order for recovery of costs is made and timely payment
19 is not made as directed in the board's decision the board may
20 enforce the order for repayment in any appropriate court. This
21 right of enforcement shall be in addition to any other rights the
22 board may have as to any practitioner directed to pay costs.

23 (c) In any action for recovery of costs, proof of the board's
24 decision shall be conclusive proof of the validity of the order of
25 payment and the terms for payment.

26 (d) (1) The board shall not renew or reinstate the license of any
27 licensee who has failed to pay all of the costs ordered under this
28 section.

29 (2) Notwithstanding paragraph (1), the board may, in its
30 discretion, conditionally renew, for a maximum of one year, the
31 license of any licensee who demonstrates financial hardship,
32 through documentation satisfactory to the board, and who enters
33 into a formal agreement with the board to reimburse the board
34 within that one-year period for those unpaid costs.

35 SEC. 28. Section 3773 of the Business and Professions Code
36 is amended to read:

37 3773. (a) At the time of application for renewal of a respiratory
38 care practitioner license, the licensee shall notify the board of all
39 of the following:

40 (a)

1 (1) Whether he or she has been convicted of any crime
2 subsequent to the licensee's previous renewal.

3 ~~(b)~~

4 (2) The name and address of the licensee's current employer or
5 employers.

6 *(b) The licensee shall cooperate in providing additional*
7 *information as requested by the board. If a licensee fails to provide*
8 *the requested information within 30 days, the license shall become*
9 *inactive until the information is received.*

10 SEC. 29. Section 4022.5 of the Business and Professions Code
11 is amended to read:

12 4022.5. (a) "Designated representative" means an individual
13 to whom a license has been granted pursuant to Section 4053. *A*
14 *pharmacist fulfilling the duties of Section 4053 shall not be*
15 *required to obtain a license as a designated representative.*

16 (b) "Designated representative-in-charge" means a designated
17 representative or a pharmacist ~~who is proposed by a wholesaler~~
18 ~~or veterinary food-animal drug retailer and approved by the board~~
19 ~~as the supervisor or manager of a wholesaler responsible for~~
20 ~~ensuring the wholesaler's or veterinary food-animal drug-retailer~~
21 ~~retailer's compliance with all state and federal laws and~~
22 ~~regulations pertaining to practice in the applicable license~~
23 ~~category.~~

24 (c) This section shall become operative on January 1, 2006.

25 SEC. 30. Section 4027 of the Business and Professions Code
26 is amended to read:

27 4027. (a) As used in this chapter, the terms "skilled nursing
28 facility," "intermediate care facility," and other references to health
29 facilities shall be construed with respect to the definitions contained
30 in Article 1 (commencing with Section 1250) of Chapter 2 of
31 Division 2 of the Health and Safety Code.

32 (b) ~~As used in paragraph (4) of subdivision (a) of Section 4052~~
33 ~~Section 4052.1, "licensed health care facility" means a facility~~
34 ~~licensed pursuant to Article 1 (commencing with Section 1250)~~
35 ~~of Chapter 2 of Division 2 of the Health and Safety Code or a~~
36 ~~facility, as defined in Section 1250 of the Health and Safety Code,~~
37 ~~operated by a health care service plan licensed pursuant to Chapter~~
38 ~~2.2 (commencing with Section 1340) of Division 2 of the Health~~
39 ~~and Safety Code.~~

(c) As used in ~~paragraph (5) of subdivision (a) of Section 4052~~ *Section 4052.2*, “health care facility” means a facility, other than a facility licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code, that is owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of the Health and Safety Code, or by an organization under common ownership or control of the health care service plan; “licensed home health agency” means a private or public organization licensed by the State Department of Health Services pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code, as further defined in Section 1727 of the Health and Safety Code; and “licensed clinic” means a clinic licensed pursuant to Article 1 (commencing with Section 1200) of Chapter 1 of Division 2 of the Health and Safety Code.

(d) “Licensed health care facility” or “facility,” as used in Section 4065, means a health facility licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code or a facility that is owned or operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or by an organization under common ownership or control with the health care service plan.

SEC. 31. Section 4036.5 is added to the Business and Professions Code, to read:

4036.5. “Pharmacist-in-charge” means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

SEC. 32. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) “Prescription” means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to either ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*.

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to either ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2* by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with ~~paragraph (3) (2) of subdivision (b) (a) of Section 11164~~ of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) “Electronic transmission prescription” includes both image and data prescriptions. “Electronic image transmission prescription” means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. “Electronic data transmission prescription” means any prescription order, other than an electronic image transmission prescription,

1 that is electronically transmitted from a licensed prescriber to a
2 pharmacy.

3 (d) The use of commonly used abbreviations shall not invalidate
4 an otherwise valid prescription.

5 (e) Nothing in the amendments made to this section (formerly
6 Section 4036) at the 1969 Regular Session of the Legislature shall
7 be construed as expanding or limiting the right that a chiropractor,
8 while acting within the scope of his or her license, may have to
9 prescribe a device.

10 SEC. 33. Section 4051 of the Business and Professions Code
11 is amended to read:

12 4051. (a) Except as otherwise provided in this chapter, it is
13 unlawful for any person to manufacture, compound, furnish, sell,
14 or dispense any dangerous drug or dangerous device, or to dispense
15 or compound any prescription pursuant to Section 4040 of a
16 prescriber unless he or she is a pharmacist under this chapter.

17 (b) Notwithstanding any other law, a pharmacist may authorize
18 the initiation of a prescription, pursuant to Section ~~4052~~ 4052.1,
19 4052.2, or 4052.3, and otherwise provide clinical advice or
20 information or patient consultation if all of the following conditions
21 are met:

22 (1) The clinical advice or information or patient consultation is
23 provided to a health care professional or to a patient.

24 (2) The pharmacist has access to prescription, patient profile,
25 or other relevant medical information for purposes of patient and
26 clinical consultation and advice.

27 (3) Access to the information described in paragraph (2) is
28 secure from unauthorized access and use.

29 SEC. 34. Section 4059.5 of the Business and Professions Code
30 is amended to read:

31 4059.5. (a) Except as otherwise provided in this chapter,
32 dangerous drugs or dangerous devices may only be ordered by an
33 entity licensed by the board and shall be delivered to the licensed
34 premises and signed for and received by a pharmacist. Where a
35 licensee is permitted to operate through a designated representative,
36 the designated representative ~~may~~ shall sign for and receive the
37 delivery.

38 (b) A dangerous drug or dangerous device transferred, sold, or
39 delivered to a person within this state shall be transferred, sold, or

1 delivered only to an entity licensed by the board, to a manufacturer,
2 or to an ultimate user or the ultimate user's agent.

3 (c) Notwithstanding subdivisions (a) and (b), deliveries to a
4 hospital pharmacy may be made to a central receiving location
5 within the hospital. However, the dangerous drugs or dangerous
6 devices shall be delivered to the licensed pharmacy premises within
7 one working day following receipt by the hospital, and the
8 pharmacist on duty at that time shall immediately inventory the
9 dangerous drugs or dangerous devices.

10 (d) Notwithstanding any other provision of law, a dangerous
11 drug or dangerous device may be ordered by and provided to a
12 manufacturer, physician, dentist, podiatrist, optometrist,
13 veterinarian, naturopathic doctor pursuant to Section 3640.7, or
14 laboratory, or a physical therapist acting within the scope of his
15 or her license. A person or entity receiving delivery of a dangerous
16 drug or dangerous device, or a duly authorized representative of
17 the person or entity, shall sign for the receipt of the dangerous drug
18 or dangerous device.

19 (e) A dangerous drug or dangerous device shall not be
20 transferred, sold, or delivered to a person outside this state, whether
21 foreign or domestic, unless the transferor, seller, or deliverer does
22 so in compliance with the laws of this state and of the United States
23 and of the state or country to which the dangerous drugs or
24 dangerous devices are to be transferred, sold, or delivered.
25 Compliance with the laws of this state and the United States and
26 of the state or country to which the dangerous drugs or dangerous
27 devices are to be delivered shall include, but not be limited to,
28 determining that the recipient of the dangerous drugs or dangerous
29 devices is authorized by law to receive the dangerous drugs or
30 dangerous devices.

31 (f) Notwithstanding subdivision (a), a pharmacy may take
32 delivery of dangerous drugs and dangerous devices when the
33 pharmacy is closed and no pharmacist is on duty if all of the
34 following requirements are met:

35 (1) The drugs are placed in a secure storage facility in the same
36 building as the pharmacy.

37 (2) Only the pharmacist-in-charge or a pharmacist designated
38 by the pharmacist-in-charge has access to the secure storage facility
39 after dangerous drugs or dangerous devices have been delivered.

(3) The secure storage facility has a means of indicating whether it has been entered after dangerous drugs or dangerous devices have been delivered.

(4) The pharmacy maintains written policies and procedures for the delivery of dangerous drugs and dangerous devices to a secure storage facility.

(5) The agent delivering dangerous drugs and dangerous devices pursuant to this subdivision leaves documents indicating the name and amount of each dangerous drug or dangerous device delivered in the secure storage facility.

The pharmacy shall be responsible for the dangerous drugs and dangerous devices delivered to the secure storage facility. The pharmacy shall also be responsible for obtaining and maintaining records relating to the delivery of dangerous drugs and dangerous devices to a secure storage facility.

(g) This section shall become operative on January 1, 2006.

SEC. 35. Section 4060 of the Business and Professions Code is amended to read:

4060. No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 *Section 4052.1 or 4052.2*. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

SEC. 36. Section 4062 of the Business and Professions Code is amended to read:

1 4062. (a) Notwithstanding Section 4059 or any other provision
2 of law, a pharmacist may, in good faith, furnish a dangerous drug
3 or dangerous device in reasonable quantities without a prescription
4 during a federal, state, or local emergency, to further the health
5 and safety of the public. A record containing the date, name, and
6 address of the person to whom the drug or device is furnished, and
7 the name, strength, and quantity of the drug or device furnished
8 shall be maintained. The pharmacist shall communicate this
9 information to the patient's attending physician as soon as possible.
10 Notwithstanding Section 4060 or any other provision of law, a
11 person may possess a dangerous drug or dangerous device
12 furnished without prescription pursuant to this section.

13 (b) During a declared federal, state, or local emergency, the
14 board may waive application of any provisions of this chapter or
15 the regulations adopted pursuant to it if, in the board's opinion,
16 the waiver will aid in the protection of public health or the
17 provision of patient care.

18 (c) *During a declared federal, state, or local emergency, the*
19 *board shall allow for the employment of a mobile pharmacy in*
20 *impacted areas in order to ensure the continuity of patient care,*
21 *if all of the following conditions are met:*

22 (1) *The mobile pharmacy shares common ownership with at*
23 *least one currently licensed pharmacy in good standing.*

24 (2) *The mobile pharmacy retains records of dispensing, as*
25 *required by subdivision (a).*

26 (3) *A licensed pharmacist is on the premises and the mobile*
27 *pharmacy is under the control and management of a pharmacist*
28 *while the drugs are being dispensed.*

29 (4) *Reasonable security measures are taken to safeguard the*
30 *drug supply maintained in the mobile pharmacy.*

31 (5) *The mobile pharmacy is located within the declared*
32 *emergency area or affected areas.*

33 (6) *The mobile pharmacy ceases the provision of services within*
34 *48 hours following the termination of the declared emergency.*

35 SEC. 37. Section 4076 of the Business and Professions Code
36 is amended to read:

37 4076. (a) A pharmacist shall not dispense any prescription
38 except in a container that meets the requirements of state and
39 federal law and is correctly labeled with all of the following:

(1) Except where the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2* orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

1 (10) The condition for which the drug was prescribed if
2 requested by the patient and the condition is indicated on the
3 prescription.

4 (11) (A) Commencing January 1, 2006, the physical description
5 of the dispensed medication, including its color, shape, and any
6 identification code that appears on the tablets or capsules, except
7 as follows:

8 (i) Prescriptions dispensed by a veterinarian.

9 (ii) An exemption from the requirements of this paragraph shall
10 be granted to a new drug for the first 120 days that the drug is on
11 the market and for the 90 days during which the national reference
12 file has no description on file.

13 (iii) Dispensed medications for which no physical description
14 exists in any commercially available database.

15 (B) This paragraph applies to outpatient pharmacies only.

16 (C) The information required by this paragraph may be printed
17 on an auxiliary label that is affixed to the prescription container.

18 (D) This paragraph shall not become operative if the board,
19 prior to January 1, 2006, adopts regulations that mandate the same
20 labeling requirements set forth in this paragraph.

21 (b) If a pharmacist dispenses a prescribed drug by means of a
22 unit dose medication system, as defined by administrative
23 regulation, for a patient in a skilled nursing, intermediate care, or
24 other health care facility, the requirements of this section will be
25 satisfied if the unit dose medication system contains the
26 aforementioned information or the information is otherwise readily
27 available at the time of drug administration.

28 (c) If a pharmacist dispenses a dangerous drug or device in a
29 facility licensed pursuant to Section 1250 of the Health and Safety
30 Code, it is not necessary to include on individual unit dose
31 containers for a specific patient, the name of the certified
32 nurse-midwife who functions pursuant to a standardized procedure
33 or protocol described in Section 2746.51, the nurse practitioner
34 who functions pursuant to a standardized procedure described in
35 Section 2836.1, or protocol, the physician assistant who functions
36 pursuant to Section 3502.1, the naturopathic doctor who functions
37 pursuant to a standardized procedure or protocol described in
38 Section 3640.5, or the pharmacist who functions pursuant to a
39 policy, procedure, or protocol pursuant to either-subparagraph (D)

1 of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
2 (5) of, subdivision (a) of Section 4052 *Section 4052.1 or 4052.2.*

3 (d) If a pharmacist dispenses a prescription drug for use in a
4 facility licensed pursuant to Section 1250 of the Health and Safety
5 Code, it is not necessary to include the information required in
6 paragraph (11) of subdivision (a) when the prescription drug is
7 administered to a patient by a person licensed under the Medical
8 Practice Act (Chapter 5 (commencing with Section 2000)), the
9 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),
10 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing
11 with Section 2840)), who is acting within his or her scope of
12 practice.

13 SEC. 38. Section 4081 of the Business and Professions Code
14 is amended to read:

15 4081. (a) All records of manufacture and of sale, acquisition,
16 or disposition of dangerous drugs or dangerous devices shall be
17 at all times during business hours open to inspection by authorized
18 officers of the law, and shall be preserved for at least three years
19 from the date of making. A current inventory shall be kept by every
20 manufacturer, wholesaler, pharmacy, veterinary food-animal drug
21 retailer, physician, dentist, podiatrist, veterinarian, laboratory,
22 clinic, hospital, institution, or establishment holding a currently
23 valid and unrevoked certificate, license, permit, registration, or
24 exemption under Division 2 (commencing with Section 1200) of
25 the Health and Safety Code or under Part 4 (commencing with
26 Section 16000) of Division 9 of the Welfare and Institutions Code
27 who maintains a stock of dangerous drugs or dangerous devices.

28 (b) The owner, officer, and partner of a pharmacy, wholesaler,
29 or veterinary food-animal drug retailer shall be jointly responsible,
30 with the pharmacist-in-charge or *designated*
31 representative-in-charge, for maintaining the records and inventory
32 described in this section.

33 (c) The pharmacist-in-charge or *designated*
34 representative-in-charge shall not be criminally responsible for
35 acts of the owner, officer, partner, or employee that violate this
36 section and of which the pharmacist-in-charge or *designated*
37 representative-in-charge had no knowledge, or in which he or she
38 did not knowingly participate.

39 (d) This section shall become operative on January 1, 2006.

1 SEC. 39. Section 4110 of the Business and Professions Code
2 is amended to read:

3 4110. (a) No person shall conduct a pharmacy in the State of
4 California unless he or she has obtained a license from the board.
5 A license shall be required for each pharmacy owned or operated
6 by a specific person. A separate license shall be required for each
7 of the premises of any person operating a pharmacy in more than
8 one location. The license shall be renewed annually. The board
9 may, by regulation, determine the circumstances under which a
10 license may be transferred.

11 (b) The board may, at its discretion, issue a temporary permit,
12 when the ownership of a pharmacy is transferred from one person
13 to another, upon the conditions and for any periods of time as the
14 board determines to be in the public interest. A temporary permit
15 fee shall be established by the board at an amount not to exceed
16 the annual fee for renewal of a permit to conduct a pharmacy.
17 When needed to protect public safety, a temporary permit may be
18 issued for a period not to exceed 180 days, and may be issued
19 subject to terms and conditions the board deems necessary. If the
20 board determines a temporary permit was issued by mistake or
21 denies the application for a permanent license or registration, the
22 temporary license or registration shall terminate upon either
23 personal service of the notice of termination upon the permitholder
24 or service by certified mail, return receipt requested, at the
25 permitholder's address of record with the board, whichever comes
26 first. Neither for purposes of retaining a temporary permit nor for
27 purposes of any disciplinary or license denial proceeding before
28 the board shall the temporary permitholder be deemed to have a
29 vested property right or interest in the permit.

30 (c) *The board may allow the temporary use of a mobile*
31 *pharmacy when a pharmacy is destroyed or damaged, the mobile*
32 *pharmacy is necessary to protect the health and safety of the public,*
33 *and the following conditions are met:*

34 (1) *The mobile pharmacy shall provide services only on or*
35 *immediately contiguous to the site of the damaged or destroyed*
36 *pharmacy.*

37 (2) *The mobile pharmacy is under the control and management*
38 *of the pharmacist-in-charge of the pharmacy that was destroyed*
39 *or damaged.*

1 (3) *A licensed pharmacist is on the premises while drugs are*
2 *being dispensed.*

3 (4) *Reasonable security measures are taken to safeguard the*
4 *drug supply maintained in the mobile pharmacy.*

5 (5) *The pharmacy operating the mobile pharmacy provides the*
6 *board with records of the destruction or damage of the pharmacy*
7 *and an expected restoration date.*

8 (6) *Within three calendar days of restoration of the pharmacy*
9 *services, the board is provided with notice of the restoration of*
10 *the permanent pharmacy.*

11 (7) *The mobile pharmacy is not operated for more than 48 hours*
12 *following the restoration of the permanent pharmacy.*

13 SEC. 40. Section 4111 of the Business and Professions Code
14 is amended to read:

15 4111. (a) Except as otherwise provided in subdivision (b), (d),
16 or (e), the board shall not issue or renew a license to conduct a
17 pharmacy to any of the following:

18 (1) A person or persons authorized to prescribe or write a
19 prescription, as specified in Section 4040, in the State of California.

20 (2) A person or persons with whom a person or persons specified
21 in paragraph (1) shares a community or other financial interest in
22 the permit sought.

23 (3) Any corporation that is controlled by, or in which 10 percent
24 or more of the stock is owned by a person or persons prohibited
25 from pharmacy ownership by paragraph (1) or (2).

26 (b) Subdivision (a) shall not preclude the issuance of a permit
27 for an inpatient hospital pharmacy to the owner of the hospital in
28 which it is located.

29 (c) The board may require any information the board deems is
30 reasonably necessary for the enforcement of this section.

31 (d) Subdivision (a) shall not preclude the issuance of a new or
32 renewal license for a pharmacy to be owned or owned and operated
33 by a person licensed on or before August 1, 1981, under the
34 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
35 (commencing with Section 1340) of Division 2 of the Health and
36 Safety Code) and qualified on or before August 1, 1981, under
37 subsection (d) of Section 1310 of Title XIII of the federal Public
38 Health Service Act, as amended, whose ownership includes persons
39 defined pursuant to paragraphs (1) and (2) of subdivision (a).

(e) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a pharmacist authorized to issue a drug order pursuant to ~~subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2.*

SEC. 41. Section 4126.5 of the Business and Professions Code is amended to read:

4126.5. (a) A pharmacy may furnish dangerous drugs only to the following:

(1) A wholesaler owned or under common control by the wholesaler from whom the dangerous drug was acquired.

(2) The pharmaceutical manufacturer from whom the dangerous drug was acquired.

(3) A licensed wholesaler acting as a reverse distributor.

(4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug that could result in the denial of health care. A pharmacy furnishing dangerous drugs pursuant to this paragraph may only furnish a quantity sufficient to alleviate the temporary shortage.

(5) A patient or to another pharmacy pursuant to a prescription or as otherwise authorized by law.

(6) A health care provider that is not a pharmacy but that is authorized to purchase dangerous drugs.

(7) To another pharmacy under common control.

(b) Notwithstanding any other provision of law, a violation of this section ~~by either a pharmacy whose primary or sole business is filling prescriptions for patients of long-term care facilities or a person engaged in a prohibited transaction with a pharmacy whose primary or sole business is filling prescriptions for patients of long-term care facilities~~ may subject the *person or* persons who committed the violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence pursuant to a citation issued by the board.

(c) Amounts due from any person under this section on or after January 1, 2005, shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.

(d) For purposes of this section, “common control” means the power to direct or cause the direction of the management and policies of another person whether by ownership, by voting rights, by contract, or by other means.

~~(e) For purposes of subdivision (b) of this section and subdivision (s) of Section 4301, “long-term care facility” shall have the same meaning given the term in Section 1418 of the Health and Safety Code.~~

SEC. 42. Section 4174 of the Business and Professions Code is amended to read:

4174. Notwithstanding any other provision of law, a pharmacist may dispense drugs or devices upon the drug order of a nurse practitioner functioning pursuant to Section 2836.1 or a certified nurse-midwife functioning pursuant to Section 2746.51, a drug order of a physician assistant functioning pursuant to Section 3502.1 or a naturopathic doctor functioning pursuant to Section 3640.5, or the order of a pharmacist acting under Section ~~4052~~ *4052.1, 4052.2, or 4052.3.*

SEC. 43. Section 4231 of the Business and Professions Code is amended to read:

4231. (a) The board shall not renew a pharmacist license unless the applicant submits proof satisfactory to the board that he or she has successfully completed 30 hours of approved courses of continuing pharmacy education during the two years preceding the application for renewal.

(b) Notwithstanding subdivision (a), the board shall not require completion of continuing education for the first renewal of a pharmacist license.

(c) If an applicant for renewal of a pharmacist license submits the renewal application and payment of the renewal fee but does not submit proof satisfactory to the board that the licensee has completed 30 hours of continuing pharmacy education, the board shall not renew the license and shall issue the applicant an inactive pharmacist license. A licensee with an inactive pharmacist license issued pursuant to this section may obtain an active pharmacist license by paying the renewal fees due and submitting satisfactory proof to the board that the licensee has completed 30 hours of continuing pharmacy education.

(d) If, as part of an investigation or audit conducted by the board, a pharmacist fails to provide documentation substantiating

1 *the completion of continuing education as required in subdivision*
2 *(a), the board shall cancel the active pharmacist license and issue*
3 *an inactive pharmacist license in its place. A licensee with an*
4 *inactive pharmacist license issued pursuant to this section may*
5 *obtain an active pharmacist license by paying the renewal fees*
6 *due and submitting satisfactory proof to the board that the licensee*
7 *has completed 30 hours of continuing pharmacy education.*

8 SEC. 44. Section 4301 of the Business and Professions Code
9 is amended to read:

10 4301. The board shall take action against any holder of a license
11 who is guilty of unprofessional conduct or whose license has been
12 procured by fraud or misrepresentation or issued by mistake.
13 Unprofessional conduct shall include, but is not limited to, any of
14 the following:

15 (a) Gross immorality.

16 (b) Incompetence.

17 (c) Gross negligence.

18 (d) The clearly excessive furnishing of controlled substances
19 in violation of subdivision (a) of Section 11153 of the Health and
20 Safety Code.

21 (e) The clearly excessive furnishing of controlled substances in
22 violation of subdivision (a) of Section 11153.5 of the Health and
23 Safety Code. Factors to be considered in determining whether the
24 furnishing of controlled substances is clearly excessive shall
25 include, but not be limited to, the amount of controlled substances
26 furnished, the previous ordering pattern of the customer (including
27 size and frequency of orders), the type and size of the customer,
28 and where and to whom the customer distributes its product.

29 (f) The commission of any act involving moral turpitude,
30 dishonesty, fraud, deceit, or corruption, whether the act is
31 committed in the course of relations as a licensee or otherwise,
32 and whether the act is a felony or misdemeanor or not.

33 (g) Knowingly making or signing any certificate or other
34 document that falsely represents the existence or nonexistence of
35 a state of facts.

36 (h) The administering to oneself, of any controlled substance,
37 or the use of any dangerous drug or of alcoholic beverages to the
38 extent or in a manner as to be dangerous or injurious to oneself,
39 to a person holding a license under this chapter, or to any other
40 person or to the public, or to the extent that the use impairs the

1 ability of the person to conduct with safety to the public the practice
2 authorized by the license.

3 (i) Except as otherwise authorized by law, knowingly selling,
4 furnishing, giving away, or administering, or offering to sell,
5 furnish, give away, or administer, any controlled substance to an
6 addict.

7 (j) The violation of any of the statutes of this state, of any other
8 state, or of the United States regulating controlled substances and
9 dangerous drugs.

10 (k) The conviction of more than one misdemeanor or any felony
11 involving the use, consumption, or self-administration of any
12 dangerous drug or alcoholic beverage, or any combination of those
13 substances.

14 (l) The conviction of a crime substantially related to the
15 qualifications, functions, and duties of a licensee under this chapter.
16 The record of conviction of a violation of Chapter 13 (commencing
17 with Section 801) of Title 21 of the United States Code regulating
18 controlled substances or of a violation of the statutes of this state
19 regulating controlled substances or dangerous drugs shall be
20 conclusive evidence of unprofessional conduct. In all other cases,
21 the record of conviction shall be conclusive evidence only of the
22 fact that the conviction occurred. The board may inquire into the
23 circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not
25 involving controlled substances or dangerous drugs, to determine
26 if the conviction is of an offense substantially related to the
27 qualifications, functions, and duties of a licensee under this chapter.
28 A plea or verdict of guilty or a conviction following a plea of nolo
29 contendere is deemed to be a conviction within the meaning of
30 this provision. The board may take action when the time for appeal
31 has elapsed, or the judgment of conviction has been affirmed on
32 appeal or when an order granting probation is made suspending
33 the imposition of sentence, irrespective of a subsequent order under
34 Section 1203.4 of the Penal Code allowing the person to withdraw
35 his or her plea of guilty and to enter a plea of not guilty, or setting
36 aside the verdict of guilty, or dismissing the accusation,
37 information, or indictment.

38 (m) The cash compromise of a charge of violation of Chapter
39 13 (commencing with Section 801) of Title 21 of the United States
40 Code regulating controlled substances or of Chapter 7

1 (commencing with Section 14000) of Part 3 of Division 9 of the
2 Welfare and Institutions Code relating to the Medi-Cal program.
3 The record of the compromise is conclusive evidence of
4 unprofessional conduct.

5 (n) The revocation, suspension, or other discipline by another
6 state of a license to practice pharmacy, operate a pharmacy, or do
7 any other act for which a license is required by this chapter.

8 (o) Violating or attempting to violate, directly or indirectly, or
9 assisting in or abetting the violation of or conspiring to violate any
10 provision or term of this chapter or of the applicable federal and
11 state laws and regulations governing pharmacy, including
12 regulations established by the board or by any other state or federal
13 regulatory agency.

14 (p) Actions or conduct that would have warranted denial of a
15 license.

16 (q) Engaging in any conduct that subverts or attempts to subvert
17 an investigation of the board.

18 (r) The selling, trading, transferring, or furnishing of drugs
19 obtained pursuant to Section 256b of Title 42 of the United States
20 Code to any person a licensee knows or reasonably should have
21 known, not to be a patient of a covered entity, as defined in
22 paragraph (4) of subsection (a) of Section 256b of Title 42 of the
23 United States Code.

24 (s) The clearly excessive furnishing of dangerous drugs by a
25 wholesaler to a pharmacy that primarily or solely dispenses
26 prescription drugs to patients of long-term care facilities. Factors
27 to be considered in determining whether the furnishing of
28 dangerous drugs is clearly excessive shall include, but not be
29 limited to, the amount of dangerous drugs furnished to a pharmacy
30 that primarily or solely dispenses prescription drugs to patients of
31 long-term care facilities, the previous ordering pattern of the
32 pharmacy, and the general patient population to whom the
33 pharmacy distributes the dangerous drugs. That a wholesaler has
34 established, and employs, a tracking system that complies with
35 the requirements of subdivision (b) of Section 4164 shall be
36 considered in determining whether there has been a violation of
37 this subdivision. This provision shall not be interpreted to require
38 a wholesaler to obtain personal medical information or be
39 authorized to permit a wholesaler to have access to personal
40 medical information except as otherwise authorized by Section 56

1 and following of the Civil Code. *For purposes of this section,*
2 *“long-term care facility” shall have the same meaning given the*
3 *term in Section 1418 of the Health and Safety Code.*

4 (t) This section shall become operative on January 1, 2006.

5 SEC. 45. Section 4305 of the Business and Professions Code
6 is amended to read:

7 4305. (a) ~~Any person who has obtained a license to conduct~~
8 ~~a pharmacy, shall notify the board within 30 days of the termination~~
9 ~~of employment of any pharmacist who takes charge of, or acts as~~
10 ~~manager of the pharmacy. Failure to notify the board within the~~
11 ~~30-day period Failure by any pharmacist to notify the board in~~
12 ~~writing that he or she has ceased to act as pharmacist-in-charge~~
13 ~~of a pharmacy, or by any pharmacy to notify the board in writing~~
14 ~~that a pharmacist-in-charge is no longer acting in that capacity,~~
15 ~~within the 30-day period specified in Sections 4101 and 4113 shall~~
16 ~~constitute grounds for disciplinary action.~~

17 (b) *Operation of a pharmacy for more than 30 days without*
18 *supervision or management by a pharmacist-in-charge shall*
19 *constitute grounds for disciplinary action.*

20 ~~(b)~~

21 (c) Any person who has obtained a license to conduct a
22 pharmacy, who willfully fails to *timely* notify the board ~~of the~~
23 ~~termination of employment of any pharmacist who takes charge~~
24 ~~of, or acts as manager that the pharmacist-in-charge of the~~
25 ~~pharmacy has ceased to act in that capacity,~~ and who continues
26 to permit the compounding or dispensing of prescriptions, or the
27 furnishing of drugs or poisons, in his or her pharmacy, except by
28 a pharmacist *subject to the supervision and management of a*
29 *responsible pharmacist-in-charge,* shall be subject to summary
30 suspension or revocation of his or her license to conduct a
31 pharmacy.

32 ~~(e) Any pharmacist who takes charge of, or acts as manager of~~
33 ~~a pharmacy, who terminates his or her employment at the~~
34 ~~pharmacy, shall notify the board within 30 days of termination of~~
35 ~~employment. Failure to notify the board within the 30-day period~~
36 ~~shall constitute grounds for disciplinary action.~~

37 SEC. 46. Section 4329 of the Business and Professions Code
38 is amended to read:

39 4329. Any nonpharmacist who takes charge of or acts as
40 *supervisor, manager, or pharmacist-in-charge* of any pharmacy,

1 or who compounds or dispenses a prescription or furnishes
2 dangerous drugs except as otherwise provided in this chapter, is
3 guilty of a misdemeanor.

4 SEC. 47. Section 4330 of the Business and Professions Code
5 is amended to read:

6 4330. (a) Any person who has obtained a license to conduct
7 a pharmacy, who fails to place in charge of the pharmacy a
8 pharmacist, or any person, who by himself or herself, or by any
9 other person, permits the compounding or dispensing of
10 prescriptions, or the furnishing of dangerous drugs, in his or her
11 pharmacy, except by a pharmacist, or as otherwise provided in this
12 chapter, is guilty of a misdemeanor.

13 (b) Any ~~nonpharmacist~~ *pharmacy* owner who commits any act
14 that would subvert or tend to subvert the efforts of the
15 pharmacist-in-charge to comply with the laws governing the
16 operation of the pharmacy is guilty of a misdemeanor.

17 SEC. 48. Section 4990.09 is added to the Business and
18 Professions Code, to read:

19 4990.09. The board shall not publish on the Internet the final
20 determination of a citation and fine of one thousand five hundred
21 dollars (\$1,500) or less issued against a licensee or registrant
22 pursuant to Section 125.9 for a period of time in excess of five
23 years from the date of issuance of the citation.

24 SEC. 49. Section 8659 of the Government Code is amended
25 to read:

26 8659. Any physician or surgeon (whether licensed in this state
27 or any other state), hospital, pharmacist, *respiratory care*
28 *practitioner*, nurse, or dentist who renders services during any
29 state of war emergency, a state of emergency, or a local emergency
30 at the express or implied request of any responsible state or local
31 official or agency shall have no liability for any injury sustained
32 by any person by reason of ~~such~~ *those* services, regardless of how
33 or under what circumstances or by what cause ~~such~~ *those* injuries
34 are sustained; provided, however, that the immunity herein granted
35 shall not apply in the event of a willful act or omission.

36 SEC. 50. Section 11150 of the Health and Safety Code is
37 amended to read:

38 11150. No person other than a physician, dentist, podiatrist,
39 or veterinarian, or naturopathic doctor acting pursuant to Section
40 3640.7 of the Business and Professions Code, or pharmacist acting

1 within the scope of a project authorized under Article 1
2 (commencing with Section 128125) of Chapter 3 of Part 3 of
3 Division 107 or within the scope of ~~either subparagraph (D) of~~
4 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~
5 ~~(5) of, subdivision (a) of Section 4052~~ *Section 4052.1 or 4052.2*
6 of the Business and Professions Code, a registered nurse acting
7 within the scope of a project authorized under Article 1
8 (commencing with Section 128125) of Chapter 3 of Part 3 of
9 Division 107, a certified nurse-midwife acting within the scope of
10 Section 2746.51 of the Business and Professions Code, a nurse
11 practitioner acting within the scope of Section 2836.1 of the
12 Business and Professions Code, a physician assistant acting within
13 the scope of a project authorized under Article 1 (commencing
14 with Section 128125) of Chapter 3 of Part 3 of Division 107 or
15 Section 3502.1 of the Business and Professions Code, a
16 naturopathic doctor acting within the scope of Section 3640.5 of
17 the Business and Professions Code, or an optometrist acting within
18 the scope of Section 3041 of the Business and Professions Code,
19 or an out-of-state prescriber acting pursuant to Section 4005 of the
20 Business and Professions Code shall write or issue a prescription.

21 SEC. 51. Section 11165 of the Health and Safety Code is
22 amended to read:

23 11165. (a) To assist law enforcement and regulatory agencies
24 in their efforts to control the diversion and resultant abuse of
25 Schedule II, Schedule III, and Schedule IV controlled substances,
26 and for statistical analysis, education, and research, the Department
27 of Justice shall, contingent upon the availability of adequate funds
28 from the Contingent Fund of the Medical Board of California, the
29 Pharmacy Board Contingent Fund, the State Dentistry Fund, the
30 Board of Registered Nursing Fund, and the Osteopathic Medical
31 Board of California Contingent Fund, maintain the Controlled
32 Substance Utilization Review and Evaluation System (CURES)
33 for the electronic monitoring of the prescribing and dispensing of
34 Schedule II, Schedule III, and Schedule IV controlled substances
35 by all practitioners authorized to prescribe or dispense these
36 controlled substances.

37 (b) The reporting of Schedule III and Schedule IV controlled
38 substance prescriptions to CURES shall be contingent upon the
39 availability of adequate funds from the Department of Justice. The
40 Department of Justice may seek and use grant funds to pay the

1 costs incurred from the reporting of controlled substance
2 prescriptions to CURES. Funds shall not be appropriated from the
3 Contingent Fund of the Medical Board of California, the Pharmacy
4 Board Contingent Fund, the State Dentistry Fund, the Board of
5 Registered Nursing Fund, the Naturopathic Doctor's Fund, or the
6 Osteopathic Medical Board of California Contingent Fund to pay
7 the costs of reporting Schedule III and Schedule IV controlled
8 substance prescriptions to CURES.

9 (c) CURES shall operate under existing provisions of law to
10 safeguard the privacy and confidentiality of patients. Data obtained
11 from CURES shall only be provided to appropriate state, local,
12 and federal persons or public agencies for disciplinary, civil, or
13 criminal purposes and to other agencies or entities, as determined
14 by the Department of Justice, for the purpose of educating
15 practitioners and others in lieu of disciplinary, civil, or criminal
16 actions. Data may be provided to public or private entities, as
17 approved by the Department of Justice, for educational, peer
18 review, statistical, or research purposes, provided that patient
19 information, including any information that may identify the
20 patient, is not compromised. Further, data disclosed to any
21 individual or agency as described in this subdivision shall not be
22 disclosed, sold, or transferred to any third party.

23 (d) For each prescription for a Schedule II, Schedule III, or
24 Schedule IV controlled substance, the dispensing pharmacy *or*
25 *clinic* shall provide the following information to the Department
26 of Justice on a weekly basis and in a format specified by the
27 Department of Justice:

28 (1) Full name, address, and the telephone number of the ultimate
29 user or research subject, or contact information as determined by
30 the Secretary of the United States Department of Health and Human
31 Services, and the gender, and date of birth of the ultimate user.

32 (2) The prescriber's category of licensure and license number;
33 federal controlled substance registration number; and the state
34 medical license number of any prescriber using the federal
35 controlled substance registration number of a government-exempt
36 facility.

37 (3) Pharmacy prescription number, license number, and federal
38 controlled substance registration number.

39 (4) NDC (National Drug Code) number of the controlled
40 substance dispensed.

1 (5) Quantity of the controlled substance dispensed.

2 (6) ICD-9 (diagnosis code), if available.

3 (7) Number of refills ordered.

4 (8) Whether the drug was dispensed as a refill of a prescription
5 or as a first-time request.

6 (9) Date of origin of the prescription.

7 (10) Date of dispensing of the prescription.

8 (e) This section shall become operative on January 1, 2005.

9 SEC. 52. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.